PRELIMINARY DRAFT
No. 3352

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2004 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 33.

Synopsis: Title 33 recodification. Recodifies Title 33 concerning courts and court officers to reorganize and restate the law without substantive change. (This document does not make: (1) most amendments to cross references inside Title 33; and (2) any amendments to cross references outside Title 33; to conform to the Title 33 recodification.) Repeals current Title 33 provisions.

Effective: July 1, 2004.

20041485

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 33-22 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 10. EFFECT OF RECODIFICATION OF TITLE 33

Chapter 1. Effect of Recodification by the Act of the 2004 Regular Session of the General Assembly

Sec. 1. As used in this chapter, "prior law" refers to the statutes concerning courts and court officers that are repealed or amended in the recodification act of the 2004 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 2004 regular session of the general assembly.

Sec. 2. The purpose of the recodification act of the 2004 regular session of the general assembly is to recodify prior law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 2004 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 2004 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 2003 expressly indicate a different purpose;

the substantive operation and effect of the prior law continue uninterrupted as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

Sec. 3. Subject to section 2 of this chapter, sections 4 through 9 of this chapter shall be applied to the statutory construction of the recodification act of the 2004 regular session of the general assembly.

Sec. 4. (a) The recodification act of the 2004 regular session of

the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made or authorized;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of any contracts, easements, or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;

(C) certificates of registration;

(D) grants of authority; or

(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;

before the effective date of the recodification act of the 2004 regular session of the general assembly (July 1, 2004). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

(b) The recodification act of the 2004 regular session of the general assembly does not:

(1) extend or cause to expire a permit, license, certificate of registration, or other grant or limitation of authority; or

(2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation of authority;

issued under the prior law.

(c) The recodification act of the 2004 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior law or the rules adopted under the prior law.

Sec. 5. The recodification act of the 2004 regular session of the general assembly shall be construed as a recodification of prior law. Except as provided in section 2(1) and 2(2) of this chapter, if

the literal meaning of the recodification act of the 2004 regular session of the general assembly (including a literal application of an erroneous change to an internal reference) would result in a substantive change in the prior law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 2004 regular session of the general assembly; or

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 2004 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if the literal meaning of the act is unambiguous does not apply to the recodification act of the 2004 regular session of the general assembly to the extent that the recodification act of the 2004 regular session of the general assembly is not substantively identical to the prior law.

Sec. 6. Subject to section 9 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 2004 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.

Sec. 7. A citation reference in the recodification act of the 2004 regular session of the general assembly to another provision of the recodification act of the 2004 regular session of the general assembly shall be treated as including a reference to the provision of prior law that is substantively equivalent to the provision of the recodification act of the 2004 regular session of the general assembly that is referred to by the citation reference.

Sec. 8. (a) As used in the recodification act of the 2004 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 2004 regular session of the general assembly refers to either:

(1) rules adopted under the recodification act of the 2004 regular session of the general assembly; or

(2) rules adopted under the prior law until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior law continue in effect after June 30, 2004, until the rules are amended, repealed, or suspended.

Sec. 9. (a) A reference in the recodification act of the 2004 regular session of the general assembly to a citation in the prior law before its repeal is added in certain sections of the recodification act of the 2004 regular session of the general

assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 2004 regular session of the general assembly of a reference to a citation in the prior law before its repeal does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of contracts, easements, or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;

(C) certificates of registration;

(D) grants of authority; or

(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;

before the effective date of the recodification act of the 2004 regular session of the general assembly (July 1, 2004). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 2004 regular session of the general assembly of a citation to a provision in the prior law does not affect the use of a prior conviction, violation, or noncompliance under the prior law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 2004 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 2004 regular session of the general assembly in a manner that does not result in a substantive change in the law.

SECTION 2. IC 33-23 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 23. GENERAL PROVISIONS

Chapter 1. Definitions

SECTION 3. IC 33-1-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-13-1 part] Sec. 1. ~~As used~~ **The definitions** in this **chapter apply throughout this** title.

[33-2.1-1-3(10)] Sec. 2. ~~(10) "Chairman"~~ **"Chairperson"** includes ~~the~~ **an** acting ~~chairman.~~ **chairperson.**

[33-2.1-1-3(7)] Sec. 3. ~~(7)~~ "Commission on judicial qualifications", **except as used in IC 33-5-40????,** means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

[33-1-13-1 part] Sec. 4. "Crime" means a felony or a misdemeanor.

[33-1-13-1 part] Sec. 5. "Felony" means a violation of a statute for which a person ~~might~~ **may** be imprisoned for more than one (1) year.

[33-1-13-1 part] Sec. 6. "Infraction" means a violation of a statute for which a person ~~might~~ **may** be fined but not imprisoned.

SECTION 4. IC 33-2.1-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-1-3(1)] Sec. 7. ~~The definitions in this section have the following meanings throughout this article, unless the context or subject matter otherwise requires:~~ ~~(1)~~ "Judicial nominating commission", **except as used in IC 33-5-29.5 ???, IC 33-5-5.1 ????, and IC 33-5-40 ????,** means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

[33-2.1-1-3(2)] Sec. 8. ~~(2)~~ "Judicial office", **except as used in IC 33-2.1-2 ???? and IC 33-2.1-4 ????,** means the office held by a judge or justice.

[33-1-13-1 part] Sec. 9. "Misdemeanor" means a violation of a statute for which a person ~~might~~ **may** be imprisoned ~~but not~~ for **not** more than one (1) year.

[33-1-13-1 part] Sec. 10. "Offense" means a felony, a misdemeanor, an infraction, or a violation of a penal ordinance.

[33-2.1-1-3(3)] Sec. 11. ~~(3)~~ "Vacancy" means an opening in a judicial office or an opening on the judicial nominating commission ~~which~~ **that** occurs by reason of death, retirement, resignation, or removal.

~~(4) "Non-attorney commissioners" means the three (3) individuals not admitted to the practice of law, who are appointed to the judicial nominating commission by the governor.~~

~~(5) "Attorney commissioners" means the three (3) individuals admitted to the practice of law, who are elected to the judicial nominating commission by the electors.~~

~~(6) "Electors" means individuals who are attorneys in good standing, admitted to the practice of law in Indiana.~~

~~(8) "Judge" means a judge of the court of appeals, except when used in:~~

~~(A) IC 33-2.1-5, in which case the term "judge" shall include~~

~~justices of the supreme court as well as judges of the court of appeals; or~~

~~(B) IC 33-2.1-8.~~

~~(9) "Justice" means a justice of the supreme court of Indiana.~~

~~(11) "Masters" means the special masters appointed by the chief justice upon request of the commission.~~

~~(12) "Presiding master" means the master so designated by the chief justice or, in the absence of such designation, the justice or judge named in the order appointing masters.~~

~~(13) "Counsel" means the lawyer designated by the commission to gather and present evidence before the masters or commission with respect to the charges against a judge and to represent the commission before the supreme court in connection with any proceedings before the court.~~

~~(14) "Shall" is mandatory and "may" is permissive.~~

~~(15) "Mail" and "mailed" include ordinary mail or personal delivery.~~

~~(16) The masculine gender includes the feminine gender.~~

Chapter 2. Court Terms and Schedules

SECTION 5. IC 33-1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-6-1] Sec. 1. The term time and vacation time, as defined on December 31, 1967, of all courts ~~of the state of~~ **in** Indiana are ~~hereby~~ abolished. The term of court for all courts ~~shall be~~ **is** the calendar year and the judges of ~~such~~ **a** court ~~shall have the same power to~~ **may** act in all matters and proceedings through the entire calendar year as ~~such~~ judges had ~~prior to~~ **before** January 1, 1968, in term time.

SECTION 6. IC 33-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-3-1] Sec. 2. If, at the expiration of the time fixed by law for the continuance of the term of ~~any~~ **a** court, the trial of a cause ~~shall be~~ **is** progressing, ~~said~~ **the** court may:

(1) continue ~~its~~ sitting beyond ~~such~~ **the** time; ~~and~~

(2) require the attendance of the jury and witnesses; and

(3) do, transact, and enforce all other matters ~~which shall be~~ necessary for the determination of ~~such~~ **the** cause. ~~and~~

In ~~such~~ **this** case, the term of ~~said~~ **the** court ~~shall~~ **may** not be ~~deemed~~ **considered** to be ended until the cause ~~shall have~~ **has** been fully disposed of by the court. [QUERY: From 1885. See IC 33-1-6-1 above. Can anything be repealed?]

SECTION 7. IC 33-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-6-2] Sec. 3. ~~Where~~ **If** a judicial circuit consists of two (2) or more courts, the judge ~~thereof~~ **of the circuit** shall divide ~~his~~ **the judge's** time and the attendance in each court as the business of ~~same~~ **the courts** requires.

SECTION 8. IC 33-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-6-3] Sec. 4. All courts ~~shall~~ retain

power and control over their judgments for ~~a period of~~ ninety (90) days after the rendering ~~thereof~~ **of the judgments** in the same manner and under the same conditions as they ~~have heretofore~~ retained ~~such~~ power and control during the term of court in which the judgments were rendered.

SECTION 9. IC 33-1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-6-4] Sec. 5. ~~Wherever,~~ **If** in any statute, rule, or order, a period ~~of time~~ is described or fixed by a term of court, a period of sixty (60) days for the purposes of time limitation only shall be substituted ~~in lieu of a~~ **for the** term of court.

SECTION 10. IC 33-1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-6-5] Sec. 6. ~~For the purpose of the~~ **In** setting for trial ~~of~~ **a** case at issue and ~~for discharge of~~ **in discharging** rules upon which time has run, ~~the~~ **a** judge shall: ~~either:~~

(1) fix regular periods for setting cases not exceeding ~~an elapse of more than~~ one hundred twenty (120) days between ~~such~~ **the** periods; or

(2) set each **case** by a docket sheet entry, on a day certain, with notice, either in person or by mail, **of the date set** to attorneys of record. ~~of such setting.~~

Chapter 3. Juvenile Court Jurisdiction

SECTION 11. IC 33-12-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-12-3-1] Sec. 1. A circuit court has juvenile jurisdiction unless this title provides that another court in the same county has exclusive juvenile jurisdiction.

SECTION 12. IC 33-12-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-12-3-2] Sec. 2. A court other than a circuit court has juvenile jurisdiction only if:

(1) this title specifically provides that the court has juvenile jurisdiction; or

(2) this title provides that the court has the same jurisdiction as a circuit court having juvenile jurisdiction.

SECTION 13. IC 33-12-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-12-3-3] Sec. 3. **(a)** When in session under this ~~article,~~ **chapter,** a court shall be known as the juvenile court.

(b) A juvenile court shall maintain its own docket, order book, and records.

SECTION 14. IC 33-12-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-12-3-4] Sec. 4. A juvenile court may adopt rules to:

(1) simplify; and

(2) expedite;

its own proceedings and decisions.

SECTION 15. IC 33-13-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-3-1] Sec. 1. ~~There~~

~~shall be paid to the~~ **Each** judge of each:

(1) judicial circuit containing more than one (1) county; ~~to the judge of each~~

(2) county court serving more than one (1) county; and ~~to the judge of each~~

(3) superior court district containing more than one (1) county;

shall be paid two thousand dollars ($2,000) per ~~annum,~~ **year** to reimburse ~~such~~ **the** judge for traveling and other necessary expenses. ~~and~~ Two thousand dollars ($2,000) for each ~~such~~ judge is appropriated annually out of any money in the general fund of the state treasury not otherwise appropriated.

Chapter 4. Notice to Licensing Body of Insurance Fraud Conviction

SECTION 16. IC 33-1-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-16-1] Sec. 1. As used in this chapter, "governmental body" means ~~any~~ **an** agency, a board, or a commission of the legislative, executive, or judicial branch of state government.

SECTION 17. IC 33-1-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-16-2] Sec. 2. As used in this chapter, "license" means an occupational or a professional license, registration, permit, or certificate issued by a governmental body.

SECTION 18. IC 33-1-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-16-3] Sec. 3. As used in this section, "practitioner" means a person who holds a license. The term includes the following:

(1) An attorney.

(2) A person practicing an occupation or a profession that is licensed under IC 27 or by a board referred to in IC 25-1-2-6(b).

SECTION 19. IC 33-1-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-16-4] Sec. 4. If a practitioner is convicted under IC 35-43-5-4(10) of:

(1) insurance fraud;

(2) an attempt to commit insurance fraud; or

(3) conspiracy to commit insurance fraud;

the sentencing court shall provide notice of the conviction to each governmental body that has issued a license to the practitioner.

Chapter 5. Protection of Indiana National Guard Members on Active Duty

SECTION 20. IC 33-1-18-1, AS ADDED BY P.L.113-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-18-1] Sec. 1. (a) An Indiana state court may grant the rights, benefits, and protections described in section 513 of the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 513, as amended and in effect on January 1, 2003, to a person primarily or secondarily liable on an obligation or liability of an Indiana national

guard member to whom IC 10-16-7-23 applies.

(b) All rights, benefits, and protections granted to a person under subsection (a) are in addition to the rights, benefits, and protections granted the person under the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 501 et seq., as amended and in effect on January 1, 2003.

Chapter 6. Commission on Courts

SECTION 21. IC 33-1-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-15-1] Sec. 1. The commission on courts is established.

SECTION 22. IC 33-1-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-15-2] Sec. 2. The commission on courts is composed of the following thirteen (13) members:

(1) The chief justice of the supreme court or a representative designated by the chief justice.

(2) Four (4) members from the house of representatives, appointed by the speaker of the house of representatives, not more than two (2) of whom are from the same political party.

(3) Four (4) members from the senate, appointed by the president pro tempore of the senate, not more than two (2) of whom are from the same political party.

(4) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the president pro tempore of the senate as follows:

(A) One (1) member must be a sitting judge.

(B) One (1) member must be a county commissioner.

(5) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the speaker of the house of representatives as follows:

(A) One (1) member must be a member of a county council.

(B) One (1) member must be a circuit court clerk.

SECTION 23. IC 33-1-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-15-3] Sec. 3. Each appointed member of the commission on courts serves for a term of four (4) years.

SECTION 24. IC 33-1-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-15-4] Sec. 4. The chairman of the legislative council shall appoint the chairman and vice chairman of the commission on courts from among the legislative members of the commission. The chairman and vice chairman:

(1) may not be members of the same political party;

(2) may not be from the same house of the general assembly; and

(3) must be appointed from a different house of the general assembly each year.

SECTION 25. IC 33-1-15-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-15-5] Sec. 5. (a) Each member of the commission on courts who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

SECTION 26. IC 33-1-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-15-6] Sec. 6. (a) The legislative services agency shall employ necessary staff to carry out the administrative duties and functions of the commission on courts, including the following:

(1) Giving notices of commission meetings and other communication services.

(2) Keeping records related to commission meetings, proceedings, and actions.

(3) Preparing the report required under section 7 of this chapter.

(4) Providing the detailed investigation necessary for the commission to fulfill the duties imposed under section 7 of this chapter.

(5) Preparing draft proposals required under section 7 of this chapter.

(b) The legislative services agency shall not expend more than forty-eight thousand dollars ($48,000) per year to employ the staff required under subsection (a).

SECTION 27. IC 33-1-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-15-7] Sec. 7. The commission on courts shall do the following:

(1) Review and report on all requests for new courts or changes in jurisdiction of existing courts. A request for review under this subdivision must be received by the commission not later than July 1 of each year. A request received after July 1 may not be considered unless a majority of the commission members ~~agree~~ **agrees** to consider the request.

(2) Conduct research concerning requests for new courts or

changes in jurisdiction of existing courts. ~~This~~ **The** research may include the conduct of surveys sampling members of the bar, members of the judiciary, and local officials to determine needs and problems.

(3) Conduct public hearings throughout Indiana concerning requests for new courts or changes in jurisdiction of existing courts. The commission shall hold at least one (1) public hearing on each request presented to the commission.

(4) Review and report on any other matters relating to court administration that the commission determines appropriate, including the following:

(A) Court fees.

(B) Court personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(C) Salaries of court officers and personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(D) Jury selection.

(E) Any other issues relating to the operation of the courts.

(5) Submit a report **in an electronic format under IC 5-14-6** before November 1 of each year to the general assembly. ~~that includes~~ **The report must include** the following:

(A) A recommendation on all requests considered by the commission during the preceding year for the creation of new courts or changes in the jurisdiction of existing courts.

(B) If the commission recommends the creation of new courts or changes in jurisdiction of existing courts, the following:

(i) A draft of legislation implementing the changes.

(ii) A fiscal analysis of the cost to the state and local governments of implementing recommended changes.

(iii) Summaries of any research supporting the recommended changes.

(iv) Summaries of public hearings held concerning the recommended changes.

(C) A recommendation on any issues considered by the commission under subdivision (4).

SECTION 28. IC 33-1-15-8, AS AMENDED BY P.L.17-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-15-8] Sec. 8. This chapter expires June 30, 2007.

Chapter 7. Ethics

SECTION 29. IC 33-2.1-8-1, AS AMENDED BY P.L.14-2000, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-1(a)] Sec. 1. ~~(a)~~ As used in this chapter, "cause" means a trial, **a** hearing, **an** arraignment, **a** controversy, **an** appeal, **a** case, or any business performed within the official duty of a justice, judge, or prosecuting attorney.

[33-2.1-8-1(h)] Sec. 2. ~~(h)~~ **As used in this chapter, "close relative" means a person related to:**

(1) another person filing a statement of economic interest; or

(2) the other person's spouse as a son, a daughter, a grandson, a granddaughter, a great-grandson, a great-granddaughter, a father, a mother, a grandfather, a grandmother, a great-grandfather, a great-grandmother, a brother, a sister, a nephew, a niece, an uncle, or an aunt.

For purposes of this section, relatives by adoption, half-blood, marriage, or remarriage are treated as relatives of whole kinship.

[33-2.1-8-1(b)] Sec. 3. ~~(b)~~ As used in this chapter, "compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or for services to be rendered, whether by that person or another.

[33-2.1-8-1(c)] ~~(c)~~ Sec. 4. As used in this chapter, "economic interest" means substantial financial interest in investments, employment, awarding of contracts, purchases, leases, sales, or similar matters.

[33-2.1-8-1(d)] ~~(d)~~ Sec. 5. As used in this chapter, "employer" means any person from whom the judge, justice, or prosecuting attorney or ~~that person's~~ **the** spouse **of the judge, justice, or prosecuting attorney** receives any nonstate income.

[33-2.1-8-1(e)] ~~(e)~~ Sec. 6. As used in this chapter, "information of a confidential nature" means information **that:**

(1) is obtained by reason of the position or office held; and ~~which information~~

(2) has not been or will not be communicated to the general public.

[33-2.1-8-1(g)] ~~(g)~~ Sec. 7. **(a) As used in this chapter, "judge" means a judge of the court of appeals, the tax court, or a circuit, superior, county, small claims, or probate court.**

(b) The term includes a judge pro tempore, commissioner, or hearing officer if the judge pro tempore, commissioner, or hearing officer sits more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as a judge, commissioner, or hearing officer in any court.

[33-2.1-8-1(f)] ~~(f)~~ Sec. 8. As used in this chapter, "person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

~~(g) As used in this chapter, "judge" means a judge of the court of appeals, or the tax court, or of a circuit, superior, county, small claims, or probate court. A judge pro tempore, commissioner, or hearing officer shall be considered a judge if that person shall sit more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1)~~

~~calendar year as judge, commissioner, or hearing officer in any court.~~

~~(h) As used in this chapter, "close relative" means a person related to a person filing a statement of economic interest or to the person's spouse as a son, daughter, grandson, granddaughter, great-grandson, great-granddaughter, father, mother, grandfather, grandmother, great-grandfather, great-grandmother, brother, sister, nephew, niece, uncle, or aunt. Relatives by adoption, half-blood, marriage, or remarriage shall be treated as relatives of whole kinship.~~

SECTION 30. IC 33-2.1-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-2] Sec. 9. A justice, judge, or prosecuting attorney may not participate in ~~any~~ **a** cause ~~which~~ **that** involves ~~any~~ **a** matter in which the justice, judge, or prosecuting attorney or ~~any~~ **a** member of ~~his~~ **the** family **of the justice, judge, or prosecuting attorney** has an economic interest.

SECTION 31. IC 33-2.1-8-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-2.5] Sec. 10. The actions of a justice, judge, or prosecuting attorney in ~~any~~ **a** cause that involves a legislator or a member of a legislator's family may not be influenced by any matters previously considered or to be considered by the legislator in the general assembly.

SECTION 32. IC 33-2.1-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-3] Sec. 11. A justice, judge, or prosecuting attorney shall promptly and fully disclose any economic interest or other personal stake ~~he~~ **the justice, judge, or prosecuting attorney** or a member of ~~his~~ **the** family **of the justice, judge, or prosecuting attorney** may have in a cause in which ~~he~~ **the justice, judge, or prosecuting attorney** is a participant.

SECTION 33. IC 33-2.1-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-4] Sec. 12. A justice, judge, or prosecuting attorney may not accept any compensation from any employment, transaction, or investment ~~which~~ **that** was entered into or made as a result of material information of a confidential nature.

SECTION 34. IC 33-2.1-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-5] Sec. 13. A justice, judge, or prosecuting attorney may not accept compensation for the sale or lease of any property or service ~~which~~ **that** exceeds **the amount** that ~~which he~~ **the justice, judge, or prosecuting attorney** would charge in the ordinary course of business from any person or entity whom ~~he~~ **the justice, judge, or prosecuting attorney** knows, or has reason to know, has an economic interest in the outcome of a current or future cause in which the justice, judge, or prosecuting attorney is or may be a participant.

SECTION 35. IC 33-2.1-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-6] Sec. 14. (a) The following shall file with the commission **on judicial qualifications** an

annual statement of economic interests:

(1) Justices, judges, prosecuting attorneys, and the clerk of the supreme court.

(2) Except as provided in subsection (c), any candidate for one (1) of the offices listed in subdivision (1) who is not the holder of that office.

(b) Justices and judges who are candidates for retention in office are subject to IC 3-9.

(c) This section does not apply to a candidate for an appointment pro tempore to fill a vacancy in an office under IC 3-13.

SECTION 36. IC 33-2.1-8-7, AS AMENDED BY P.L.176-1999, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-7] Sec. 15. (a) The statement of economic interests must be filed with the commission **on judicial qualifications:**

(1) not later than February 1 if the individual is required to file the statement as an officeholder; or

(2) if a candidate for office, before the individual (or a political party officer acting on behalf of the individual) files:

(A) a declaration of candidacy, if required under IC 3-8-2 or IC 3-8-4-11;

(B) a certified petition of nomination with the Indiana election division under IC 3-8-6;

(C) a certificate of nomination under IC 3-8-7-8;

(D) a certificate of candidate selection under IC 3-13-1 or IC 3-13-2; or

(E) a declaration of intent to be a write-in candidate, if required under IC 3-8-2.

(b) In a county where judges are selected by a county commission on judicial qualifications, a candidate must file a statement with the county commission and ~~also~~ with the commission on judicial qualifications.

SECTION 37. IC 33-2.1-8-8, AS AMENDED BY P.L.271-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-8] Sec. 16. The statement of economic interests shall set forth the following information for the preceding calendar year:

(1) The name and address of any person other than a spouse or close relative ~~(as defined in section 1(h) of this chapter)~~ from whom the justice, judge, prosecuting attorney, or clerk of the supreme court received a gift or gifts having a total fair market value ~~in excess~~ of **more than** one hundred dollars ($100).

(2) The name of the employer of the justice, judge, prosecuting attorney, or clerk of the supreme court and the employer of ~~that person's~~ **the** spouse **of the justice, judge, prosecuting attorney, or clerk of the supreme court.**

(3) The nature of the employer's business.

(4) The name of any sole proprietorship owned or professional practice operated by the justice, judge, prosecuting attorney, clerk of the supreme court, or ~~that person's~~ **the** spouse **of the justice, judge, prosecuting attorney, or clerk of the supreme court,** and the nature of the business.

(5) The name of any partnership of which the justice, judge, prosecuting attorney, clerk of the supreme court, or ~~that person's~~ **the** spouse **of the justice, judge, prosecuting attorney, or clerk of the supreme court** is a member and the nature of the partnership's business.

(6) The name of any corporation (except a church) of which the justice, judge, prosecuting attorney, clerk of the supreme court, or ~~that person's~~ **the** spouse **of the justice, judge, prosecuting attorney, or clerk of the supreme court** is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the justice, judge, prosecuting attorney, clerk of the supreme court, or ~~that person's~~ **the** spouse or unemancipated children ~~under~~ **less than** eighteen (18) years of age **of the justice, judge, prosecuting attorney, or clerk of the supreme court** own stock or stock options having a fair market value ~~in excess~~ of **more than** ten thousand dollars ($10,000).

SECTION 38. IC 33-2.1-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-8-10] Sec. 17. A justice of the supreme court or judge of the court of appeals may not:

(1) engage in the practice of law;

(2) run for elected office other than a judicial office;

(3) directly or indirectly make any contribution to, or hold any office in, a political party or organization; or

(4) take part in any political campaign;

as provided in Article 7, Section 11 of the Constitution of the State of Indiana.

Chapter 8. Political Activity of Court Employees

SECTION 39. IC 33-1-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-17-1] Sec. 1. The Indiana general assembly finds that:

(1) the right of every citizen to freely participate in political activity is inherent in the guarantee of free speech contained in Article 1, Section 9 of the Constitution of the State of Indiana and in Amendment I to the Constitution of the United States;

(2) the right to freely participate in political activity is guaranteed to ~~Indiana~~ state employees under IC 4-15-10-2;

(3) the judiciary is not less subject to constitutional strictures against governmental interference with the free exercise of speech than are the executive and legislative branches of government;

and

(4) employees in the judicial branch of ~~Indiana~~ **state** government have the same rights as are guaranteed to all Indiana citizens.

SECTION 40. IC 33-1-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-17-2] Sec. 2. **(a)** As used in this chapter, "court employee" means a person employed by any of the following:

(1) The supreme court.
(2) The court of appeals.
(3) The tax court.
(4) A circuit court.
(5) A superior court.
(6) A juvenile court.
(7) A probate court.
(8) A county court.
(9) A municipal court.
(10) A city or town court.
(11) A small claims court.

(b) The term does not include a judge of any of the courts listed in subdivisions (1) through (11).

SECTION 41. IC 33-1-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-17-3] Sec. 3. Except when on duty or acting in an official capacity and except where otherwise provided by state or federal law, a court employee may not be:

(1) discouraged from engaging in political activity; or
(2) denied the right to choose to refrain from engaging in political activity.

Chapter 9. Defense of Judges and Prosecutors

SECTION 42. IC 33-2.1-9-1, AS AMENDED BY P.L.72-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-9-1(a)] Sec. 1. ~~(a)~~ As used in this chapter, "judge" has the meaning set forth in [IC 33-13-17-3.]

[33-2.1-9-1(b)] ~~(b)~~ Sec. 2. As used in this chapter, "prosecuting attorney" includes a senior prosecuting attorney appointed under [IC 33-14-1.]

[33-2.1-9-1(c)] ~~(c)~~ Sec. 3. If a judge or prosecuting attorney is sued for civil damages or equitable relief and the suit would be construed, under notice pleading, as arising out of an act performed within the scope of the duties of the judge or prosecuting attorney, the attorney general shall:

(1) defend the judge or prosecuting attorney in the suit; or
(2) authorize the executive director of the division of state court administration to hire private counsel to provide the defense.

SECTION 43. IC 33-2.1-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-9-2] Sec. 4. ~~Nothing~~

~~in~~ This chapter ~~permits~~ **does not permit** the appointment of counsel for the defense of a judge or prosecuting attorney in criminal or disciplinary proceedings.

SECTION 44. IC 33-2.1-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-9-3] Sec. 5. This chapter does not:

(1) deprive a judge or prosecuting attorney of ~~his~~ **the judge's or prosecuting attorney's** right to select defense counsel of ~~his~~ **the judge's or prosecuting attorney's** own choice at ~~his~~ **the judge's or prosecuting attorney's** own expense; or

(2) relieve a prosecuting attorney from responsibility for civil damages.

SECTION 45. IC 33-2.1-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-9-4] Sec. 6. The attorney general may employ ~~such~~ legal and other professional services ~~as shall be~~ necessary to adequately and fully perform the duties required by this chapter.

Chapter 10. Senior Judges

SECTION 46. IC 33-4-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-8-1] Sec. 1. (a) A circuit court, ~~may apply to the supreme court for the appointment of a senior judge to serve the court.~~

~~(b)~~ a superior court, a county court, a probate court, or the court of appeals may apply to the supreme court for the appointment of a senior judge to serve the court.

~~(c)~~ **(b)** The application submitted under this section must include the following:

(1) Reasons for the request.

(2) Estimated duration of the need for a senior judge.

SECTION 47. IC 33-4-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-8-2] Sec. 2. Upon approving the request by a circuit court, a superior court, a county court, a probate court, or the court of appeals for a senior judge, the supreme court may appoint a senior judge to serve that court for the duration specified in the application submitted under section 1 of this chapter.

SECTION 48. IC 33-4-8-3, AS AMENDED BY P.L.94-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-8-3] Sec. 3. A senior judge:

(1) exercises the jurisdiction granted to the court served by the senior judge;

(2) may serve as a domestic relations mediator, subject to the code of judicial conduct;

(3) serves at the pleasure of the supreme court; and

(4) serves in accordance with rules adopted by the supreme court under [IC 33-2-1-8.]

A senior judge serving as a domestic relations mediator is not entitled to reimbursement or a per diem under ~~IC 33-4-8-5.~~ **section 5 of this chapter.** A senior judge serving as a domestic relations mediator may receive compensation from the alternative dispute resolution fund under [IC 33-4-13,] in accordance with the county domestic relations alternative dispute resolution plan.

SECTION 49. IC 33-4-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-8-4] Sec. 4. The supreme court may not require a senior judge to accept an assignment to serve a circuit court, a superior court, a county court, a probate court, or the court of appeals. If a senior judge declines an assignment to serve, the supreme court may offer the senior judge subsequent assignments to serve a circuit court, a superior court, a county court, a probate court, or the court of appeals.

SECTION 50. IC 33-4-8-5, AS AMENDED BY P.L.139-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-8-5] Sec. 5. (a) A senior judge is entitled to the following compensation:

(1) For each of the first thirty (30) days of service in a calendar year, a per diem of fifty dollars ($50).

(2) Except as provided in subsection (c), for each day the senior judge serves after serving the first thirty (30) days of service in a calendar year, a per diem of one hundred dollars ($100).

(3) Reimbursement for:

(A) mileage; and

(B) reasonable expenses, including but not limited to meals and lodging, incurred in performing service as a senior judge;

for each day served as a senior judge.

(b) Subject to subsection (c), the per diem and reimbursement for mileage and reasonable expenses under subsection (a) shall be paid by the state.

(c) The compensation under subsection (a)(2) must be paid by the state from funds appropriated to the supreme court for judicial payroll. If the payroll fund is insufficient to pay the compensation under subsection (a)(2), the supreme court may issue an order adjusting the compensation rate.

(d) A senior judge appointed under this chapter may not be compensated as a senior judge for more than one hundred (100) **total** calendar days ~~in the aggregate~~ during a calendar year.

Chapter 11. Court Administrators

SECTION 51. IC 33-1-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-12-6] Sec. 1. This chapter does not apply to a county having a court administrator under Indiana law before July 29, 1975.

SECTION 52. IC 33-1-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-12-1] Sec. 2. The

position of court administrator may be created by a majority vote of the judges in section ~~2~~ **(3)** of this chapter, in every county having a population according to the last United States decennial census of more than one hundred thousand (100,000) persons.

SECTION 53. IC 33-1-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-12-2] Sec. 3. The court administrator shall be appointed by and serve at the pleasure of the majority of the judges of the following courts of the county sitting in committee:

~~(a)~~ **(1)** Circuit court.

~~(b)~~ **(2)** Superior court.

~~(c)~~ **(3)** Juvenile court.

~~(d)~~ **(4)** Probate court. ~~and~~

~~(e)~~ **(5)** Criminal court.

SECTION 54. IC 33-1-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-12-3] Sec. 4. The court administrator:

(1) shall devote full time to ~~his~~ **the court administrator's** official duties; and

(2) may not engage in any other profession for profit.

SECTION 55. IC 33-1-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-12-4] Sec. 5. **(a)** Sitting in committee, the judges of the courts in each county listed in section ~~2~~ **3** of this chapter shall determine the duties of the court administrator and the court administrator shall perform ~~such~~ **the** administrative duties ~~as~~ the judges determine.

(b) The salary of the court administrator shall be determined by a majority of the judges listed in section ~~2~~ **3** of this chapter in each county, sitting in committee. ~~and said~~ **The court administrator's** salary shall be paid by the county upon the order of the majority of the committee of judges.

SECTION 56. IC 33-1-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-12-5] Sec. 6. ~~For the implementation of~~ **(a) To implement** this chapter, the judges of the courts, sitting in committee, may appoint additional personnel in sufficient number so that ~~they~~ **the courts** ~~may be~~ **are** adequately served by the court administrator.

(b) The salaries of ~~such~~ **the** additional personnel shall be paid by the county upon the order of the committee of judges.

SECTION 57. IC 33-24 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 24. SUPREME COURT

Chapter 1. Justices and Jurisdiction

SECTION 58. IC 33-2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2-1-1 part] Sec. 1. **(a)**

The supreme court ~~shall consist~~ **consists** of five (5) ~~judges.~~ **justices.**

~~any~~ **(b)** Three (3) **members** of ~~whom shall form~~ **the supreme court constitute** a quorum. ~~and shall have~~

[33-2-1-1 part] Sec. 2. **(a) The supreme court has** jurisdiction in appeals coextensive with the state

[33-2.1-2-1] ~~Sec. 1. Supreme Court. The supreme court shall consist of five (5) judges, any three (3) of whom shall constitute a quorum~~ and ~~shall have~~ **has** jurisdiction as provided by the Constitution of **the State of** Indiana.

[33-2-3-1] **(b)** The supreme court ~~of this state shall have~~ **has** exclusive jurisdiction to:

(1) admit attorneys to practice law in all courts of the state; and ~~exclusive jurisdiction to~~

(2) issue restraining orders and injunctions in all cases involving the unauthorized practice of the law;

under ~~such~~ rules and regulations as ~~it~~ **the supreme court** may prescribe.

SECTION 59. IC 33-3-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-3-4] Sec. 3. ~~No~~ **Except as provided in IC 34-56-1, an** appeal ~~shall~~ **may not** be taken to the supreme court ~~or court of appeals~~ in any civil case where the amount in ~~the~~ controversy, exclusive of interest and costs, does not exceed fifty dollars ($50). ~~except as provided in IC 34-56-1.~~

SECTION 60. IC 33-2-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2-1-7] Sec. 4. ~~Such judges~~ **The justices of the supreme court,** in their respective districts, may preside at the trial of any case pending in any county ~~thereof, wherein~~ **in a district in which** the circuit judge is incompetent to preside.

Chapter 2. Retention of Justices

SECTION 61. IC 33-2.1-2-6, AS AMENDED BY P.L.202-1999, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-2-6(a)] Sec. 1. ~~(a)~~ Justices ~~and Judges~~ of the supreme court ~~and the court of appeals~~ shall be approved or rejected by the electorate of the state ~~pursuant to~~ **under** Article 7, Section 11 of the Constitution of the State of Indiana.

[33-2.1-2-6(b)] Sec. 2. ~~(b)~~ A justice ~~or judge~~ who wishes to be retained in office shall file a statement with the secretary of state, not later than noon July 15 of the year in which the question of retention of the justice ~~or judge~~ is to be placed on the general election ballot, indicating that the justice ~~or judge~~ wishes to have the question of the justice's ~~or judge's~~ retention placed on the ballot. The justice's ~~or judge's~~ statement must include a statement of the justice's ~~or judge's~~ name as:

(1) the justice ~~or judge~~ wants the justice's ~~or judge's~~ name to appear on the ballot; and

(2) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

[33-2.1-2-6(c)] Sec. 3. ~~(c)~~ This ~~subsection~~ **section** applies to a justice: ~~or judge:~~

(1) who does not file a statement under ~~subsection (b),~~ **section 2 of this chapter;** and

(2) whose term expires under Article 7, Section 11 of the Constitution of the State of Indiana during the year in which the question of the retention of the justice ~~or judge~~ would have been placed on the general election ballot.

The term of a justice ~~or judge~~ expires December 31 of the year in which the question of the justice's ~~or judge's~~ retention would have been placed on the ballot.

[33-2.1-2-6(d)] Sec. 4. ~~(d)~~ This ~~subsection~~ **section** applies to a justice: ~~or judge:~~

(1) who files a statement under ~~subsection (b),~~ **section 2 of this chapter;** and

(2) whose retention is rejected by the electorate.

The term of a justice ~~or judge~~ ends when the secretary of state issues a certificate under IC 3-12-5-1 stating that the justice ~~or judge~~ has been removed. However, if the justice ~~or judge~~ has filed a petition for a recount under IC 3-12-11, the term of the justice ~~or judge~~ does not end until the state recount commission has issued a certificate under IC 3-12-11-18 stating that the electorate has rejected the retention of the justice. ~~or judge.~~

[33-2.1-2-6(e)] Sec. 5. ~~(e)~~ The question of approval or rejection of a justice ~~or judge~~ shall be placed on the general election ballot in the form prescribed by IC 3-11-2 and must state "Shall ~~Judge or~~ Justice (insert name (as permitted under IC 3-5-7) here) be retained in office?".

[33-2.1-2-6(f)] ~~(f)~~ Sec. 6. The statement filed under ~~subsection (b)~~ **section 2 of this chapter** must include a statement that the ~~judge or~~ justice requests the name on the ~~judge's or~~ justice's voter registration record be the same as the name the ~~judge or~~ justice uses on the statement. If there is a difference between the name on the ~~judge's or~~ justice's statement and the name on the ~~judge's or~~ justice's voter registration record, the officer with whom the statement is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the ~~judge's or~~ justice's voter registration record to be the same as the name on the ~~judge's or~~ justice's statement.

Chapter 3. Duties and Powers

SECTION 62. IC 33-2.1-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-3-1] Sec. 1. The supreme court shall adopt and publish rules in conformity with ~~IC 33-2.1-2~~ **?????** specifying the terms and conditions under which

the supreme court and the court of appeals ~~shall~~ exercise jurisdiction.

SECTION 63. IC 33-2.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-3-2] Sec. 2. The judicial opinion or decision in each case determined by the supreme court ~~or the court of appeals~~ shall be reduced to writing. Reports of these opinions and decisions ~~and written decisions of the tax court,~~ may be published and distributed in the manner prescribed by the supreme court.

SECTION 64. IC 33-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2-1-2] Sec. 3. **(a)** The supreme court shall have a seal **that is** devised by the ~~judges thereof~~, **justices of the supreme court.**

(b) A description of ~~which,~~ **the seal** shall be recorded in the office of the secretary of state.

SECTION 65. [33-2-1-3] IC 33-2-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. ~~Such~~ **The supreme** court ~~shall have authority,~~ **may do the following:**

~~First. To~~ **(1)** Frame, direct, and cause to be used all process, ~~to~~ establish modes of practice ~~which~~ **that** may be necessary in the exercise of ~~its~~ **the supreme court's** authority, and make **and publish** regulations ~~respecting the same and cause them to be printed.~~ **concerning all process and modes of practice.**

~~Second. To~~ **(2)** Establish regulations ~~respecting~~ **concerning** bonds required in appeals to ~~such~~ **the supreme** court, the amount of the penalties ~~thereof,~~ **related to the bonds,** and for approving sureties ~~thereto.~~ **executing bonds.**

~~Third. To~~ **(3)** Establish regulations ~~in relation to~~ **concerning** giving notice to officers of inferior courts of the granting of stay of execution, or of supersedeas.

~~Fourth. To~~ **(4)** Establish regulations ~~respecting~~ **concerning** proceedings ~~which~~ **that** are requisite in ~~such~~ **the supreme** court in the exercise of ~~its~~ **the supreme court's** authority **that are** not specially provided for by law.

SECTION 66. IC 33-2-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2-1-4] Sec. 5. ~~Such~~ **The supreme** court ~~shall have full power to~~ **may:**

(1) impose and administer all necessary oaths; ~~to~~

(2) punish by fine and imprisonment for contempt of ~~its~~ **the supreme court's** authority; and

(3) process and ~~to~~ compel the attendance of witnesses by attachment and fine.

SECTION 67. IC 33-2-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2-4-1] Sec. 6. The **Indiana** supreme court ~~of this state~~ may, by rule of court, provide that ~~when it shall appear to~~ **if:**

(1) the Supreme Court of the United States, ~~to any~~ **a** circuit court

of appeals of the United States, or ~~to~~ the court of appeals of the District of Columbia **determines** that there are involved in any proceeding before ~~it~~ **the federal appellate court** questions or propositions of the laws of ~~this state, which~~ **Indiana that** are determinative of the ~~said cause,~~ **the proceeding;** and

(2) there are no clear controlling precedents in the decisions of the **Indiana** supreme court; ~~of this state, such~~

the federal appellate court may certify ~~such~~ **the** questions or propositions of the laws of ~~this state~~ **Indiana** to the **Indiana** supreme court ~~of this state~~ for instructions concerning ~~such~~ **the** questions or propositions of state law, ~~which certificate~~ **and** the **Indiana** supreme court, ~~of this state,~~ by written opinion, may answer.

SECTION 68. IC 33-2-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2-1-8] Sec. 7. (a) The supreme court may appoint a judge who is certified as a senior judge by the judicial nominating commission to serve a circuit court or a superior court if the court requests the services of a senior judge.

(b) The supreme court may adopt rules concerning certification by the judicial nominating commission and appointment by the supreme court of senior judges.

Chapter 4. Supreme Court Clerk

SECTION 69. IC 33-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-1-1] Sec. 1. (a) A clerk of the supreme court shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years, beginning January 1 following the individual's election.

(b) The clerk shall execute a bond in the sum of two thousand dollars ($2,000).

SECTION 70. IC 33-15-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-1-2] Sec. 2. The clerk of the supreme court shall do the following:

(1) Reside, and keep the clerk's office open, in a building provided for that purpose by the state, at the seat of government, from 9 a.m. until 4 p.m. of every day in the year **except** Sundays and Independence Day. ~~excepted.~~

(2) Procure and preserve in the office all records and other books and stationery required by the court.

(3) Attend, in person or by deputy, the terms of the court.

(4) Administer all oaths authorized by law.

(5) Sign and seal, with the seal, and issue all process required to be issued from the court, under the clerk's hand.

(6) Endorse the time of filing books, records, or writings required to be filed or deposited in the clerk's office.

(7) Make a complete record of all causes finally determined in ~~such~~ **the** court, except the transcript of the court below.

SECTION 71. IC 33-15-1-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-1-3] Sec. 3. ~~On presenting an account therefor, specifying each item thereof to the truth of which he shall take and subscribe an oath, to be administered by some judge of such court, to be thereunto attached, such~~ **The supreme court shall allow the** clerk ~~shall be allowed by such~~ **of the supreme** court a reasonable compensation for the record books and stationery furnished by ~~him~~ **the clerk** for the use ~~thereof.~~ **of the court if the clerk presents to the court an account specifying each item to be furnished to the court. The account presented by the clerk must be verified by an oath taken and subscribed by the clerk, to be administered by a judge of the court.**

SECTION 72. IC 33-15-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-1-4] Sec. 4. ~~Such~~ **An** allowance **made under section 3 of this chapter** shall be entered on the order book of ~~such~~ **the supreme** court. ~~and, on~~ **Upon receipt of** a certified transcript ~~thereof,~~ **of the allowance that is** signed by ~~some~~ **a** judge **of the supreme court** and attested by the seal of ~~such~~ **the** court, ~~being presented to the auditor of state, he~~ **the auditor of state** shall issue ~~his~~ **a** warrant ~~therefor~~ **for the allowance** to the treasurer of state.

SECTION 73. IC 33-15-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-1-5] Sec. 5. **(a)** The clerk **of the supreme court** shall certify any opinion, decision, and judgment of the supreme court and of the court of appeals to the lower court from which the cause was appealed, ~~under such regulations as may be prescribed by the laws of the state~~ **in the manner provided by statute** and **by** the rules of the supreme court.

(b) The clerk of the court from which the cause was appealed, upon receipt of ~~such~~ **the** certification, shall file the ~~same~~ **certification** with the papers in the cause, and that court shall order ~~such~~ **the** opinion, decision, and judgment, including its certification, spread of record in the order book of the court.

SECTION 74. IC 33-15-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-1-6] Sec. 6. ~~Such~~ **The supreme** court shall annually appoint one (1) of ~~the~~ **its** judges ~~thereof~~ to inspect the office of ~~such~~ **the** clerk **of the supreme court** and to report, at the next term, the condition of the records and books ~~thereof, which~~ **of that office. The** report shall be entered on the order book of ~~such~~ **the** court.

SECTION 75. IC 33-15-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-1-7] Sec. 7. ~~Such clerk,~~ At the expiration of ~~his~~ **the** term **of office of the clerk of the supreme court, the clerk** shall ~~hand over~~ **deliver** to ~~his~~ **the clerk's** successor all the books and papers of ~~his~~ **the clerk's** office.

SECTION 76. IC 33-15-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-1-8] Sec. 8. The **clerk of the** supreme court ~~clerk~~ shall post a table of ~~his~~ fees in a

conspicuous place in ~~his~~ **the clerk's** office. If ~~he~~ **the clerk** fails to post a table of fees, ~~he is not entitled to~~ **the clerk may not** demand or receive fees for services that ~~he~~ **the clerk** renders.

Chapter 5. Supreme Court Sheriff

SECTION 77. IC 33-15-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-7-1] Sec. 1. **(a)** On the second Monday of January ~~1853, and every two (2) years thereafter,~~ **in each odd-numbered year,** the supreme court shall appoint a sheriff. ~~thereof, who shall~~

(b) The sheriff of the supreme court must give bond in the sum of five thousand dollars ($5,000), with sureties to be approved by ~~such~~ **the** court.

(c) The term of the sheriff's ~~and hold his~~ office ~~for~~ **is** two (2) years. ~~and~~

(d) When a vacancy in ~~such~~ **the sheriff's** office occurs in vacation, any two (2) of the judges of ~~such~~ **the** court may appoint a sheriff to serve until the next term of the court, when ~~such~~ **the** vacancy shall be filled by a vote of a majority of the **court's** judges. ~~thereof.~~

SECTION 78. IC 33-15-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-7-2] Sec. 2. ~~Such~~ **The** sheriff ~~by himself~~ **of the supreme court** or a county police officer shall:

(1) attend ~~such~~ **the** court in term time;

(2) execute ~~all~~ the orders ~~thereof,~~ **of the court;**

(3) preserve order ~~therein,~~ **within the court;** and

(4) execute ~~by himself or a county police officer~~ all process issued out of ~~such~~ **the** court.

SECTION 79. IC 33-15-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-7-3] Sec. 3. **(a)** When any process, rule, or order, ~~shall come into the hands of such~~ **is received by the** sheriff **of the supreme court,** ~~he~~ **the sheriff** may transmit ~~the same~~ **it** by mail to the sheriff of the county where the ~~same~~ **process, rule, or order** is to be served**.**

(b) ~~and~~ The sheriffs of each county ~~shall be his~~ **are the** deputies ~~but shall be~~ **of the sheriff of the supreme court. However, each county sheriff is** liable on ~~their~~ **the county sheriff's** own bond for all acts done by ~~them~~ **the county sheriff** as ~~such deputies~~ **a deputy of the sheriff of the supreme court.**

SECTION 80. IC 33-15-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-7-4] Sec. 4. ~~Such~~ **(a) A** county sheriff **acting as a deputy of the sheriff of the supreme court** may:

(1) enclose any process, rule, or order of ~~such~~ **the** court ~~which has come to his hands,~~ **that the county sheriff receives;**

(2) direct ~~it~~ **the process, rule, or order** to the sheriff of the supreme court; and

(3) deposit ~~it~~ **the process, rule, or order** in a post office in ~~his~~ **the county sheriff's** county ten (10) days before the return day ~~thereof,~~ **of the process, rule, or order.**

~~when he shall be exonerated from any liability~~ **A county sheriff that complies with this subsection is not liable** for failing to return ~~such~~ **the** process, rule, or order.

(b) If ~~any~~ money ~~is to~~ **must** be returned with ~~such process, such~~ **a process, rule, or order described in subsection (a), the** county sheriff may transmit the ~~same~~ **money** by mail, ~~therewith, but~~ **enclosed with the process, rule, or order, addressed to the sheriff of the supreme court. However,** the testimony of the postmaster that the ~~same~~ **payment** was ~~duly~~ mailed ~~shall be~~ **is** necessary to exempt **the county sheriff** from liability.

(c) ~~Provided, that~~ In case of the return of any ~~such~~ process, rule, or order of the court **described in subsection (a)** by any county sheriff, unserved or unsatisfied, the sheriff of the supreme court may visit any ~~such~~ county and personally serve ~~such~~ **the** process, rule, or order in the same manner ~~now~~ provided by law for ~~such~~ **the** service by county sheriffs. ~~And,~~ For ~~such~~ **this** service, the ~~said~~ sheriff of the supreme court ~~shall~~ **is entitled to** receive, for the distance actually traveled in going to and returning from the county seat of the county where ~~said~~ **the** process, rule, or order is to be served, and from ~~said~~ **the** county seat to the place where the ~~same~~ **process, rule, or order** is served, a sum for mileage for each instance equal to ~~that~~ **the** sum per mile paid to state employees and officers plus those other fees allowed by law to county sheriffs, with the rate for mileage to change each time the state government changes its rate per mile. ~~which~~ **The** mileage and fees shall be taxed up as costs in the cause in which ~~such~~ **the** process, rule, or order may issue, and shall be collected as other costs.

SECTION 81. IC 33-15-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-7-5] Sec. 5. **(a)** The mileage and fees for service of any process, rule, or order issued out of the supreme court ~~shall be~~ **is** the same as in case of similar writs from the circuit court.

~~and~~ **(b)** When ~~they are~~ **any process, rule, or order issued out of the supreme court is** served by the county sheriff, ~~he shall be~~ **the county sheriff is** allowed the fees for mileage, and one half (1/2) of the fees for service. ~~and~~ The remaining half of the fees for service shall be paid the sheriff of the supreme court.

(c) Fees for mileage ~~shall~~ **may** be charged only from the county seat of the county in which the process is to be served to the place of service.

~~and~~ **(d)** When money ~~shall be~~ **is** collected on ~~such~~ **any process, rule, or order issued out of the supreme court** by the county sheriff, two-thirds (2/3) of the ~~poundage thereon shall go to him~~ **sheriff's allowance is retained by the county sheriff** and the remaining third

must be delivered to the sheriff of the supreme court.
[QUERY:"POUNDAGE" IS THE AN ARCHAIC TERM THAT APPEARS ONLY IN THIS SECTION OF THE INDIANA CODE, AND IT IS AN ALLOWANCE FOR THE SHERIFF.]

SECTION 82. IC 33-15-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-7-6] Sec. 6. ~~Such~~ **The** sheriff of the supreme court ~~shall~~ **must** pay **both** the **outgoing and return** postage ~~going and returning~~ on ~~such~~ process**, rules, or orders issued by the court** and ~~tax and~~ recover the ~~same~~ **funds expended on postage** as part of the costs of the proceeding.

SECTION 83. IC 33-15-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-7-7] Sec. 7. ~~Such~~ **The** sheriff of the supreme court may require the coroner of any county to act as ~~such~~ **the sheriff of the supreme court's** deputy where the sheriff ~~thereof~~ **of that county** is **an** interested **party.**

SECTION 84. IC 33-15-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-7-8] Sec. 8. ~~Such~~ **The** sheriff of the supreme court ~~shall be~~ **is** subject to all the penalties and liabilities of sheriffs of the circuit courts.

SECTION 85. IC 33-15-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-7-9] Sec. 9. ~~On~~ **(a) The supreme court must allow the sheriff of the supreme court reasonable compensation for fuel, stationery, and extra services.** The sheriff of the supreme court ~~filing~~ **may file** a statement, ~~thereof, specifying each item of his account, to the truth of which he shall have taken and subscribed as~~ **verified by an** oath administered by the clerk of ~~such~~ **the** court ~~such supreme court shall allow such sheriff a reasonable compensation for fuel, stationery and extra services, which allowance~~ **specifying each expenditure eligible for compensation.**

(b) The compensation allowed to the sheriff of the supreme court by the court shall be entered on the order book of ~~said~~ **the** court. ~~and~~ On the presentation of a certified copy of ~~such~~ **an** order **for compensation,** attested with the seal of ~~such~~ **the** court, to the auditor of state, ~~such~~ **the** auditor **of state** shall issue ~~his~~ **a** warrant ~~therefor~~ **for the payment of compensation to the sheriff** to the treasurer of state.

Chapter 6. Office of Judicial Administration

SECTION 86. IC 33-2.1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-1] Sec. 1. **(a)** There is ~~hereby~~ created within the office of chief justice ~~of the state~~ the office of judicial administration.

(b) The office ~~shall consist~~ **consists** of two (2) divisions, entitled supreme court administration and state court administration. The division of supreme court administration shall be headed by a supreme court administrator. The division of state court administration shall be headed by an executive director.

SECTION 87. IC 33-2.1-7-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-2] Sec. 2. **(a)** The personnel of the office of judicial administration shall be appointed by and serve at the pleasure of the chief justice. ~~of the state. They~~

(b) The personnel shall devote full time to their official duties and ~~shall~~ **may** not engage in any other profession for profit. ~~Their~~

(c) Personnel salaries shall be fixed by the supreme court subject to approval by the ~~state~~ budget agency.

SECTION 88. IC 33-2.1-7-3, AS AMENDED BY P.L.183-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-3] Sec. 3. (a) The division of state court administration shall do the following:

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in ~~the state.~~ **Indiana.** All justices of the supreme court, judges of the court of appeals, judges of all trial courts, ~~in the state,~~ and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director ~~such~~ **the** information as is requested concerning the nature and volume of judicial business. The information reports ~~shall~~ **must** include ~~but not be limited to,~~ **the following:**

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure ~~therein,~~ **in the courts.**

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for the operation of the courts. ~~and~~

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) ~~nor~~ **or** more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by ~~IC 33-2.1-11.~~ **????.**

(6) Administer the judicial technology and automation project fund established by section ~~10~~ **12** of this chapter.

(b) All forms to be used in the gathering of data must be approved

by the supreme court, and shall be distributed to all judges and clerks ~~prior to~~ **before** the start of each period for which reports are required.

SECTION 89. IC 33-2.1-7-3.1, AS AMENDED BY P.L.271-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-3.1] Sec. 4. (a) The division of state court administration shall establish and administer an office of guardian ad litem and court appointed special advocate services. The division shall use money it receives from the state general fund to administer the office. If funds for guardian ad litem and court appointed special advocate programs are appropriated by the general assembly, the division shall provide matching funds to counties that are required to implement and administer, in courts with juvenile jurisdiction, a guardian ad litem and court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under ~~IC 31-33~~ **????.** Matching funds must be distributed in accordance with the provisions of section ~~3.2~~ **5** of this chapter. A county may use these matching funds to supplement amounts that are collected as fees under IC 31-40-3-1 and used for the operation of guardian ad litem and court appointed special advocate programs. The division may use its administrative fund to provide training services and communication services for local officials and local guardian ad litem and court appointed special advocate programs. The county fiscal body shall appropriate adequate funds for the county to be eligible for matching funds under this section.

(b) Matching funds provided to a county under this provision shall be used for guardian ad litem and court appointed special advocate programs and may be deposited in the county's guardian ad litem or court appointed special advocate fund described in IC 31-40-3.

(c) Any matching funds appropriated to the division of state court administration that are not used before July 1 of each fiscal year do not revert but shall be redistributed under this section on July 1. The division shall redistribute the funds among counties providing guardian ad litem and court appointed special advocate programs that are entitled to receive matching funds.

(d) Money appropriated to the division of state court administration does not revert at the end of a state fiscal year to the state general fund.

SECTION 90. IC 33-2.1-7-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-3.2] Sec. 5. (a) If appropriated by the general assembly, the division of state court administration shall grant to each county with a guardian ad litem or court appointed special advocate program an annual appropriation calculated under the following formula:

STEP ONE: Deduct the annual appropriation to the division of state court administration for administrative expenses.

STEP TWO: Ascertain the number of children in need of services in each county, as determined by the ~~division~~ **office** of family and

children, during the preceding state fiscal year.

STEP THREE: Divide the result under STEP TWO by the total number of children in need of services in Indiana, as determined by the ~~division~~ **office** of family and children, during the preceding fiscal year.

STEP FOUR: Multiply the result under STEP THREE by the remaining state match appropriation.

(b) If, under subsection (a), a county's grant would result in a grant of two thousand dollars ($2,000) or less, the county ~~shall~~ **is entitled to** receive a grant of two thousand dollars ($2,000). After subtracting the state match appropriation distributed to these counties from the total remaining state appropriation, the division of state court administration shall distribute the remaining state appropriation under the following formula:

STEP ONE: Subtract the total number of children in need of services in the counties covered under subsection (a) from the total number of children in need of services in Indiana as determined by the ~~division~~ **office** of family and children during the preceding state fiscal year.

STEP TWO: Divide the number of children in need of services in each of the counties not covered under subsection (a) by the result under STEP ONE.

STEP THREE: Multiply the result under STEP TWO by the total remaining state match appropriation.

STEP FOUR: Distribute the result under STEP THREE to each county not covered under subsection (a).

SECTION 91. IC 33-2.1-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-4] Sec. 6. The division of supreme court administration shall perform ~~such~~ legal and administrative duties for the justices as are determined by the justices.

SECTION 92. IC 33-2.1-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-5] Sec. 7. The reports required by section 3(a)(3) of this chapter shall be:

(1) directed to:

(A) the commission on judicial qualifications;

(B) the chief justice; ~~of the state,~~

(C) the clerk of the supreme court; and

(D) the Indiana legislative council; ~~and shall be~~

(2) accessible to the judicial officers of the various courts and to the general public; ~~The reports shall be~~ **and**

(3) titled "The Indiana Judicial Report".

SECTION 93. IC 33-2.1-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-6] Sec. 8. The supreme court shall provide by rule of the court for the enforcement of this chapter.

SECTION 94. IC 33-2.1-7-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-7] Sec. 9. The ~~present~~ authority of the courts to appoint administrative or clerical personnel is not limited by ~~any provision of~~ this chapter.

SECTION 95. IC 33-2.1-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-8] Sec. 10. **(a)** The executive director shall, with the approval of the supreme court, divide the state geographically into ~~no less than~~ **at least** eight (8) trial court districts.

(b) On the basis of relevant information compiled by the executive director concerning the volume and nature of judicial workload, the executive director shall recommend to the supreme court the temporary transfer of any judge or judges. The supreme court shall consider the recommendation and temporarily transfer any judge of a trial court of general or special jurisdiction to another court if the temporary transfer is determined to be beneficial to facilitate the judicial work of the court to which the judge is transferred without placing an undue burden on the court from which the judge is transferred. However, ~~no~~ **a** judge ~~shall~~ **may not** be temporarily transferred to a court in another county within the district ~~he~~ **the judge** normally serves which, at its nearest point, is more than forty (40) miles ~~distant~~ from the seat of the county the judge normally serves unless ~~such~~ **the** judge consents to the transfer.

SECTION 96. IC 33-2.1-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-9] Sec. 11. Any judge transferred to a court in another county shall be paid travel and other necessary expenses by the county to which ~~he~~ **the judge** is transferred. An allowance for expenses shall be certified by the chief justice in duplicate to the auditor of the county. The certificate of allowance ~~shall be~~ **is** prima facie evidence of the correctness of the claims. ~~and no~~ **An** item ~~or items~~ of expenses certified to be correct ~~shall~~ **may not** be disallowed by the board of commissioners of that county.

SECTION 97. IC 33-2.1-7-10, AS ADDED BY P.L.183-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-7-10] Sec. 12. (a) The judicial technology and automation project fund is established ~~for the purpose of funding~~ **to fund** the judicial technology and automation project. The division of state court administration shall administer the fund. The fund consists of the following:

(1) Deposits made under ~~IC 33-19-9-4.~~ **????.**

(2) Other appropriations made by the general assembly.

(3) Grants and gifts designated for the fund or the judicial technology and automation project.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) There is annually appropriated to the division of state court administration the money in the fund for the judicial technology and automation project.

Chapter 7. Supreme Court Records

SECTION 98. IC 33-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-2-1] Sec. 1. ~~Whenever~~ **When** the supreme court or a majority of the ~~judges thereof, shall deem~~ **justices of the supreme court consider** it necessary ~~for the preservation of~~ **to have all or part of** the records of ~~said~~ **the** court ~~or any part thereof,~~ **transcribed to protect those records** from mutilation or decay arising from any cause, ~~whatever, to have the same transcribed, they~~ **the court or justices** shall ~~make an~~ order ~~directing~~ the clerk of ~~said~~ **the supreme** court to transcribe ~~said~~ **the** records in suitable books to be ~~by him~~ procured **by the clerk** for that purpose. ~~and said~~ **The** court shall make ~~such~~ **a** reasonable allowance **for the transcription** to ~~said~~ **the** clerk ~~therefor as to them shall seem~~ **in an amount that the court considers** just and proper. ~~and such compensation, when so allowed and~~ **The allowance, when** certified by a ~~judge~~ **justice** of ~~said~~ **the** court, shall be audited by the auditor of state and paid as similar allowances in other cases.

SECTION 99. IC 33-15-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-2-2] Sec. 2. ~~It shall be the duty of said clerk, Whenever~~ **(a) When** the **supreme** court ~~shall make such~~ **makes an** order ~~as herein contemplated, to~~ **under section 1 of this chapter, the clerk of the supreme court shall** procure ~~such~~ **the** books **ordered by the court** and transcribe ~~therein such~~ **in them the** records or parts ~~thereof,~~ **of records** as ~~said~~ **ordered by the** court. ~~may order; and such~~

(b) Records ~~when so~~ **or parts of records** transcribed ~~shall~~ **under this chapter** have the force and effect of the original records. ~~and~~ Transcripts of ~~the same,~~ **records** or parts ~~thereof, duly~~ **of records transcribed under this chapter,** certified by ~~said~~ **the** clerk, under the seal of ~~said~~ **the** court, ~~shall~~ have the same force and effect as transcripts of the original records.

SECTION 100. IC 33-15-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-4-1] Sec. 3. **(a)** The clerk of the supreme court ~~be and he is hereby authorized and directed to~~ **shall** prepare for public use, under the direction of the supreme court, a systematic index to the **court's** records and papers on file in the clerk's office. ~~of that court, from the organization of the court to the present time, or from 1801 to 1892. showing, among other things,~~ **The index must include the following:**

(1) The title and number of every cause appealed to the supreme court.

(2) The county and court from which appealed.

(3) The date of filing the appeal in ~~said~~ **the clerk's** office.

(4) The date of every decision and how decided.

(5) The number of box or drawer in which the papers in every case can readily be found.

~~and~~ The ~~said~~ clerk ~~is~~ **shall** also ~~required to~~ properly clean, arrange, and securely tie the papers in each cause and place ~~the same~~ **them** in boxes and drawers when ~~the same~~ **they** are provided by the proper authorities for that purpose. ~~and to~~

(b) The clerk of the supreme court shall also index ~~such~~ other papers and records on file in ~~said~~ **the clerk's** office as may be directed by the supreme court. ~~and that when such indexing shall have been complete it is hereby made the duty of such clerk to continue such indexing without further cost or expense to the state.~~

Chapter 8. Supreme Court Fees

SECTION 101. IC 33-15-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-5-1] Sec. 1. **(a)** The clerk of the supreme court, for ~~his~~ **the clerk's** services, shall, upon proper books to be kept in ~~his~~ **the clerk's** office for that purpose, tax the fees and charge the amounts ~~herein~~ specified **in this chapter.** ~~which~~ **The** fees and amounts ~~shall~~ belong to and ~~be~~ **are** the property of the state. ~~of Indiana and said clerk shall quarterly,~~

(b) On ~~the thirty-first day of~~ March **31,** ~~the thirtieth day of~~ June **30,** the ~~thirtieth day of~~ September **30,** and ~~the thirty-first day of~~ December **31** of each ~~and every~~ year, **the clerk shall:**

(1) make and file with the auditor of state a verified account of all ~~such~~ fees and amounts collected during the preceding three (3) months; ~~and shall~~

(2) pay the amount ~~therein~~ shown to be due the state ~~of Indiana~~ to the treasurer of state; and ~~shall, on such dates,~~

(3) file with the treasurer of state a verified report of uncollected fees and amounts due the state of Indiana accruing in cases disposed of during ~~such~~ **that** quarter.

SECTION 102. IC 33-15-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-5-2] Sec. 2. The clerk of the supreme court shall tax and charge a fee of two hundred fifty dollars ($250) in each cause filed in either the supreme court or the court of appeals.

SECTION 103. IC 33-15-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-5-2.5] Sec. 3. The clerk of the supreme court may, at any time after the services are rendered, issue fee bills under ~~IC 33-19-1-8~~ **????** for services rendered by the clerk or by another person in the court.

SECTION 104. IC 33-15-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-5-3] Sec. 4. (a) The clerk **of the supreme court** shall charge **the following fees:**

(1) For making record and certificate of admission of attorneys to practice before the supreme court, a fee of two dollars ($2).

(2) For making and furnishing to any person, firm, limited liability company, or corporation unauthenticated ~~carbon~~ copies of the opinions of the supreme court and the court of appeals for the purpose of publication by the person, firm, limited liability company, or corporation obtaining ~~such~~ **the** copies, in case a contract has been made by the clerk with the person, firm, limited liability company, or corporation to furnish ~~such~~ **the** copies for ~~a period of~~ at least one (1) year, ~~the clerk shall charge~~ **a fee of** two thousand eight hundred twenty-five dollars ($2,825) per year, to be paid quarterly in advance.

(b) The clerk of the supreme court may make a contract described in subsection (a).

(c) This section does not prohibit proprietors of newspapers from copying opinions of the supreme court and the court of appeals or from making abstracts of these opinions for publication in the newspapers.

(d) For all other unauthenticated ~~carbon~~ copies of the opinions of the supreme court and the court of appeals furnished by the clerk **of the supreme court** to any person, firm, limited liability company, or corporation, the clerk shall charge one dollar ($1) per page.

(e) The fees and amounts charged under this section shall be deposited by the clerk **of the supreme court** into the state general fund in the manner and at the time provided for the making of the quarterly reports of other collected fees due the state.

SECTION 105. IC 33-15-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-5-4] Sec. 5. The quarterly report required to be made by the clerk **of the supreme court under section 1 of this chapter** ~~shall~~ **must** show the number and title of the cause and the amount due the state. The clerk ~~may~~ **is** not ~~be~~ required ~~at any time,~~ to make any other or different reports, except special reports on the order of the supreme court or the court of appeals, or the written request of the governor or auditor of state.

SECTION 106. IC 33-15-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-5-5] Sec. 6. (a) The clerk of the supreme court shall tax and charge in favor of the sheriff of the supreme court, or in favor of county sheriffs for their services as ~~his~~ **the** deputies **of the sheriff of the supreme court,** the fees and amounts provided by law. ~~which~~ **The** fees and amounts ~~shall~~ **described in this subsection do** not belong to the state ~~of Indiana,~~ but ~~shall be~~ **are** the property of ~~said~~ **the** sheriff **of the supreme court** and ~~his~~ **the sheriff's** agents. ~~and~~ When **the fees are** collected, **the fees** shall be ~~by said clerk~~ paid over to ~~said~~ **the** sheriff or agents.

(b) ~~Such~~ **The** clerk **of the supreme court** at the expiration of ~~his~~ **the clerk's** term shall hand over to ~~his~~ **the clerk's** successor in office all of the books, papers, fees, costs, charges, and amounts, together with all

~~moneys~~ **money** and other property received by ~~him~~ **the clerk** by virtue of ~~his~~ **the clerk's** office or under color ~~thereof. It shall be and become the duty~~ of **that office.**

(c) The attorney general ~~to proceed by appropriate action, or otherwise, to~~ **shall** enforce the collection, for the use and benefit of the party entitled ~~thereto, of any and~~ **to them,** all ~~such~~ **fees and** amounts ~~so~~ collected and retained by ~~such~~ **the** person, including ~~the~~ penalties, ~~aforesaid,~~ against any ~~and all~~ persons liable ~~therefor, and~~ **for the fees and amounts.** All ~~such~~ unclaimed fees collected under this chapter from former clerks that have been paid in for two (2) years and ~~which~~ remain in the office of the clerk of the supreme court ~~of this state~~ for ~~a period of~~ six (6) months uncollected by the person ~~or persons~~ to whom the ~~same~~ **fees** are due, and all other unclaimed fees in the hands of the clerk of the supreme court, ~~of this state,~~ after the expiration of two (2) years from the date when ~~such~~ **the** fees are paid to ~~said~~ **the** clerk, shall be paid into the state treasury, to be held as other funds that escheat to the state. ~~of Indiana. However, it shall be the duty of~~ The clerk of the supreme court, when fees are paid into the office of ~~such~~ **the** clerk for the benefit of any other officer or person, ~~to~~ **shall** immediately notify ~~such~~ **that** officer or person by mail that ~~such~~ **the** fees ~~are~~ **have been** paid, ~~into such office,~~ the date of payment, and the amount ~~thereof.~~ **of the payment.**

Chapter 9. Appeal Bonds

SECTION 107. IC 33-15-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-6-1] Sec. 1. In all cases ~~heretofore or which may be hereafter~~ brought to the supreme court ~~of this state~~ by appeal, in which an appeal bond ~~has been or hereafter may be~~ **is** executed by the plaintiff ~~or plaintiffs~~ in ~~such~~ **the** appeal, ~~it shall be the duty of~~ the clerk of ~~said~~ **the supreme** court ~~to~~ **shall:**

(1) tax all fees and costs for which ~~said~~ **the** plaintiff ~~or plaintiffs shall be~~ **is** liable in ~~said~~ **the** court, against the principal and sureties on ~~such~~ **the** bonds, as though they were co-plaintiffs or co-defendants; ~~and to~~

(2) issue fee bills, or executions, for the collection of ~~such~~ **the** fees or costs and executions; ~~to~~ **and**

(3) collect all judgments ~~which may be~~ **that are** rendered by ~~said~~ **the** court against ~~such~~ **the** plaintiffs, against ~~such~~ **the** principals and sureties jointly.

SECTION 108. IC 33-15-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-6-2] Sec. 2. ~~It shall be the duty of the clerk~~ of ~~said court to indorse on such writ,~~ **(a)** Before delivering ~~the same~~ **a writ for the collection of fees, costs, or execution** to the proper officer, **the clerk of the supreme court shall endorse on the writ** which of ~~said~~ **the** parties is the principal and which is the surety in ~~said~~ **the** writ. ~~and it shall be the duty of~~

(b) The officer ~~into whose hands the same may come~~ **responsible for enforcement of the writ shall** first ~~to~~ levy upon the property of the principal in ~~said~~ **the** writ. ~~If~~ **To the extent that** sufficient ~~can~~ **property of the principal cannot** be found, ~~if not, he~~ **the officer** shall then, without delay, levy the ~~same~~ **writ** upon the property of the surety or sureties, and proceed to sell ~~the same~~ **that property** as in other cases.

SECTION 109. IC 33-15-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-6-3] Sec. 3. ~~No~~ **A** writ ~~as above provided, shall issue~~ **may not be issued under this chapter** for the collection of ~~any such~~ fees or costs ~~after~~ **more than** five (5) years ~~from the time at which such~~ **after the date the** cause was decided in the supreme court.

Chapter 10. Disciplinary Proceedings Against Attorneys

SECTION 110. IC 33-2-3.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2-3.-1-1(a)] Sec. 1. ~~Definitions.~~ As used in this chapter, ~~the term:~~ ~~(a)~~ "admission and discipline rule" refers to the Rules for Admission to the Bar and the "Discipline of Attorneys" adopted by the supreme court. ~~of Indiana.~~

[33-2-3.-1-1(b)] ~~(b)~~ Sec. 2. **As used in this chapter,** "commission" ~~shall mean~~ **refers to** the disciplinary commission created by Admission and Discipline Rule Twenty-Three (23).

[33-2-3.-1-1(d)] ~~(d)~~ Sec. 3. **As used in this chapter,** "commissioner" ~~shall mean~~ **means** a member of the disciplinary commission appointed ~~pursuant to~~ **under** Admission and Discipline Rule Twenty-Three (23).

[33-2-3.-1-1(c)] ~~(c)~~ Sec. 4. **As used in this chapter,** "executive secretary" ~~means~~ **refers to** the executive secretary of the disciplinary commission.

SECTION 111. IC 33-2-3.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2-3.1-2] Sec. 5. ~~Any~~ **A** person ~~shall be~~ **is** immune from civil liability for damages for any sworn or written statements made:

(1) without malice and transmitted to the commission, **the** executive secretary, or ~~his~~ **the executive secretary's** staff; or ~~made~~

(2) in the course of investigatory, hearing, or review proceedings under Admission and Discipline Rule Twenty-Three (23).

SECTION 112. IC 33-2-3.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2-3.1-3] Sec. 6. The executive secretary, ~~his~~ **the executive secretary's** staff, counsel, investigators, hearing officers, and the commissioners ~~shall be~~ **are** immune from civil liability for damages for conduct within the scope and arising out of the performance of their duties.

Chapter 11. Indiana Child Support Advisory Committee

SECTION 113. IC 33-2.1-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-10-1] Sec. 1. (a) The

Indiana child custody and support advisory committee is established. The committee consists of twelve (12) members as follows:

(1) One (1) judge or magistrate whose jurisdiction and caseload includes domestic relations.

(2) One (1) attorney admitted to the practice of law in Indiana who conducts at least fifty percent (50%) of the attorney's practice in the area of domestic relations.

(3) Eight (8) members of the general assembly, with the members chosen from the standing committees ~~which~~ **that** consider child custody and support matters.

(4) A custodial parent.

(5) A noncustodial parent.

(b) The appointments under subsection (a)(3) must include the following:

(1) Four (4) members from the senate, with not more than two (2) from the same political party and not more than two (2) of the same gender.

(2) Four (4) members from the house of representatives, with not more than two (2) from the same political party and not more than two (2) of the same gender.

(c) Appointments of the committee members shall be made as follows:

(1) The speaker of the house of representatives shall appoint the members under subsection (a)(1) and (a)(4) and the four (4) members from the house of representatives under subsection (a)(3).

(2) The president pro tempore of the senate shall appoint the members under subsection (a)(2) and (a)(5) and the four (4) members from the senate under subsection (a)(3).

(d) The members appointed under ~~subsections~~ **subsection** (a)(1) and (a)(2) must be of opposite gender.

(e) The members appointed under ~~subsections~~ **subsection** (a)(4) and (a)(5) must be of opposite gender.

SECTION 114. IC 33-2.1-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-10-2] Sec. 2. (a) An appointment under section 1 of this chapter is for a two (2) year term. A term begins August 1 of a year and an appointment required to be made that year shall be made before August 2.

(b) If a vacancy occurs, the vacancy shall be filled from the same group that was represented by the outgoing member. The new member serves for the remainder of the unexpired term.

SECTION 115. IC 33-2.1-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-10-3] Sec. 3. The chairman of the legislative council shall designate a member to serve as chairman of the committee.

SECTION 116. IC 33-2.1-10-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-10-4] Sec. 4. (a) A member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) A member of the committee who is a state employee but is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) A member of the committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on an interim study committee established by the legislative council.

SECTION 117. IC 33-2.1-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-10-5] Sec. 5. The committee shall meet at the call of the chairman. The committee may meet any number of times during the year. However, the committee ~~shall~~ **may not** be compensated for ~~not~~ more than four (4) meetings ~~per~~ **during a** year.

SECTION 118. IC 33-2.1-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-10-6] Sec. 6. (a) The committee shall review the child support guidelines adopted by the supreme court. The committee shall make recommendations, if appropriate, concerning any amendments to the guidelines. In reviewing the guidelines and formulating recommendations, the committee shall consider all relevant matters, including ~~but not limited to~~ the following:

(1) The mathematics pertaining to the child support guideline chart.

(2) The actual costs of supporting a child.

(3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.

(4) Equality of child support awards for the children of the parties, regardless of birth order.

(5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.

(6) The age of a child to the extent that the child may require different amounts of support at different ages.

(7) Clarification regarding under what circumstances, if any, support may be abated.

(8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.

(9) The application of the guidelines to a split custody situation.

(10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed had the family remained intact.

(b) In addition to the duties set forth in subsection (a), the committee shall review custody and educational expenses and other items relating to the welfare of a child of a family that is no longer intact.

SECTION 119. IC 33-2.1-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-10-7] Sec. 7. The committee shall submit a report to the supreme court administrator and to the legislative services agency not later than August 1 of each year. **The report to the legislative services agency must be in an electronic format under IC 5-14-6.**

SECTION 120. IC 33-2.1-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-10-8] Sec. 8. The supreme court administrator shall distribute the report to the members of the supreme court.

SECTION 121. IC 33-2.1-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-10-9] Sec. 9. The supreme court shall review the committee's report. The supreme court may amend the child support guidelines adopted by the supreme court based upon the committee's recommendations.

Chapter 12. Civil Legal Aid Fund

SECTION 122. IC 33-2.1-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-11-1] Sec. 1. As used in this chapter, "fund" refers to the civil legal aid fund established by section 5 of this chapter.

SECTION 123. IC 33-2.1-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-11-2] Sec. 2. As used in this chapter, "indigent" means an individual whose income is not more than one hundred twenty-five percent (125%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902.

SECTION 124. IC 33-2.1-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-11-3] Sec. 3. As used in this chapter, "legal services provider" means a private, nonprofit organization incorporated and operated exclusively in Indiana, the primary function and purpose of which is to provide civil legal services without charge to the indigent.

SECTION 125. IC 33-2.1-11-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-11-4] Sec. 4. To be eligible for the receipt of funds under this chapter, a legal services provider must meet the following requirements:

(1) The legal services provider must have been:

(A) incorporated before July 2, 1997; or

(B) incorporated and providing civil legal aid to the indigent for three (3) years immediately preceding the application for funds from the civil legal aid fund.

(2) The legal services provider must submit an opt-in form to the state court administrator before May 2 of each year. The form must include the following information:

(A) The name, address, and telephone number of the legal services provider.

(B) The Internal Revenue Code 501(c)(3) form of the legal services provider.

(C) The name and address of the executive director and board president of the legal services provider.

(D) A list of all counties within the incorporated service area of the legal services provider.

(E) Certification that the legal services provider has provided legal services to indigent individuals within its service area for the preceding three (3) years and that the legal services provider will continue to provide legal services to the indigent for the year following receipt of funds from the civil legal aid fund.

(3) The legal services provider may not do any of the following:

(A) Make available funds, personnel, or equipment for use in advocating or opposing a plan or proposal, represent a party, or participate in litigation that is intended to or has the effect of altering, revising, or reapportioning a legislative, a judicial, or an elective district at any level of government, including influencing the timing or manner of the taking of a census.

(B) Attempt to influence the issuance, amendment, or revocation of an executive order, regulation, or other statement of general applicability and future effect by a federal, state, or local agency.

(C) Attempt to influence an adjudicatory proceeding of a federal, state, or local agency if such part of the proceeding is designed for the formulation or modification of an agency policy of general applicability and future effect.

(D) Attempt to influence the passage or defeat of legislation, a constitutional amendment, a referendum, an initiative, or similar procedure of the Congress, a state, or a local legislative body.

(E) Attempt to influence the conduct of oversight proceedings of the Legal Services Corporation or a person or an entity

receiving financial assistance provided by the Legal Services Corporation.

(F) Pay for a personal service, an advertisement, a telegram, a telephone communication, a letter, printed or written matter, an administrative expense, or a related expense, associated with an activity prohibited in this subdivision.

(G) Initiate or participate in a class action suit.

(H) Support or conduct a training program for the purpose of advocating a particular public policy or encouraging a political activity, a labor or an antilabor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity. However, this clause may not be construed to prohibit the training of an attorney or a paralegal in the provision of:

(i) adequate legal assistance to eligible clients; or

(ii) advice to an eligible client as to the legal rights of the client.

(I) Participate in litigation:

(i) on behalf of a person incarcerated in a federal, state, or local prison; or

(ii) arising out of the incarceration of a person described in item (i).

SECTION 126. IC 33-2.1-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-11-5] Sec. 5. (a) The civil legal aid fund is established for the purpose of providing additional revenue for legal services providers.

(b) The fund is administered by the division of state court administration.

SECTION 127. IC 33-2.1-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-11-6] Sec. 6. (a) The division of state court administration shall annually determine the amount to be distributed from the fund to each county's legal services provider under the following formula:

STEP ONE: Determine the number of civil cases filed in the county during the year as reported by the most recent Indiana Judicial Report.

STEP TWO: Determine the number of civil cases filed in Indiana during the year as reported by the most recent Indiana Judicial Report.

STEP THREE: Divide the amount determined in STEP ONE by the amount determined in STEP TWO.

STEP FOUR: Multiply the quotient determined in STEP THREE by the annual amount appropriated under section 7 of this chapter or by the annual amount of the appropriation from the state general fund as provided in the state budget act, whichever is greater.

Except as provided in subsection (b), the product determined in STEP FOUR is the amount to be distributed to the legal services provider or providers having the county in its service area.

(b) In a county where there is more than one (1) legal services provider, the amount distributed from the fund for that county shall be distributed among the legal services providers in direct proportion to the number of legal services providers in that county.

(c) Distributions from the fund shall be made on January 1 and July 1 of each year. Money in the fund is annually appropriated to carry out the purposes of the fund.

SECTION 128. IC 33-2.1-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-11-7] Sec. 7. There is appropriated on June 30 and December 31 of each year five hundred thousand dollars ($500,000) from the state general fund for deposit into the civil legal aid fund established under section 5 of this chapter.

Chapter 13. Indiana Conference for Legal Education Opportunity

SECTION 129. IC 33-2.1-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-12-1] Sec. 1. As used in this chapter, "program" refers to the Indiana conference for legal education opportunity established under section 2 of this chapter.

SECTION 130. IC 33-2.1-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-12-2] Sec. 2. The Indiana conference for legal education opportunity is established to assist Indiana minority, low income, or educationally disadvantaged college graduates in pursuing a law degree and a career in the Indiana legal and professional community.

SECTION 131. IC 33-2.1-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-12-3] Sec. 3. (a) The program shall be organized and administered by the chief justice of the ~~Indiana~~ supreme court. The chief justice shall appoint an advisory committee composed of eight (8) members as follows:

(1) Two (2) practicing attorneys.
(2) Two (2) judges.
(3) Two (2) Indiana law school professors or administrators.
(4) Two (2) members representing community groups.

(b) The chief justice shall serve as chair of the advisory committee.

(c) Appointed members of the committee serve for three (3) year terms and may be reappointed.

(d) The committee shall solicit applications and select persons for the program who:

(1) have earned a bachelor's degree;
(2) have applied to an Indiana law school;
(3) have demonstrated the interest, motivation, and capacity to earn a law degree; and
(4) would benefit from the special training offered by the program.

(e) The committee shall award annual stipends to certified graduates of the program.

SECTION 132. IC 33-2.1-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-12-4] Sec. 4. (a) The program must provide for an intensive course of study to prepare the students selected for the demands of a law school education through classroom discussion and instruction in legal research, writing, and analysis.

(b) The program shall be taught by law professors and others from the legal profession and shall be held at an Indiana law school during the summer months.

SECTION 133. IC 33-2.1-12-5, AS AMENDED BY P.L.107-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-12-5] Sec. 5. (a) The program must provide financial assistance in the form of an annual stipend for those students who successfully complete the course of study and become certified graduates of the program.

(b) To be eligible for the annual stipend, certified graduates must be admitted to an Indiana law school, enroll on a full-time basis, and maintain good academic standing. However, for good cause and to advance the purposes of the program, the advisory committee may waive the requirement that a certified graduate must enroll on a full-time basis.

(c) The stipend may be awarded for up to three (3) successive academic years, if the student remains eligible. However, for good cause, the advisory committee may approve the award of a stipend to a student for more than three (3) successive academic years if:

(1) the student requires more than three (3) successive academic years to earn a law degree; and

(2) the total amount of the stipend that is awarded to the student does not exceed the amount the student would have been awarded if the student had been enrolled:

(A) on a full-time basis; and

(B) for up to three (3) successive academic years.

SECTION 134. IC 33-2.1-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-12-6] Sec. 6. The courts of the state are encouraged and requested to develop programs and opportunities to further the purposes of the program.

SECTION 135. IC 33-2.1-12-7, AS AMENDED BY P.L.196-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-12-7] Sec. 7. ~~Beginning July 1, 1999, and~~ **During** every state fiscal year, ~~thereafter,~~ there is appropriated from the state general fund to the office of judicial administration, division of state court administration, six hundred twenty-five thousand dollars ($625,000) to be used for the Indiana conference for legal education opportunity established by this chapter.

SECTION 136. IC 33-25 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 25. COURT OF APPEALS

Chapter 1. Judges; Geographic Districts

SECTION 137. IC 33-2.1-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-2-2(a)] Sec. 1. ~~(a)~~ The court of appeals ~~of Indiana shall be composed~~ **consists of** fifteen (15) judges, who shall serve for the hearing and decision of causes in five (5) geographic districts **described in section 2 of this chapter** ~~pursuant to~~ **under** Article 7, Section 5 of the Constitution of the State of Indiana.

[33-2.1-2-2(b)] Sec. 2. ~~(b) The state of~~ Indiana is divided into five (5) geographic districts which shall be designated as the "court of appeals - First District; Second District; Third District; Fourth District; and Fifth District" ~~respectively~~ **as follows:**

(1) ~~The following counties constitute the~~ First District: Bartholomew, Boone, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, Dubois, Fayette, Floyd, Fountain, Franklin, Gibson, Greene, Hancock, Harrison, Hendricks, Henry, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Martin, Monroe, Montgomery, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Randolph, Ripley, Rush, Scott, Shelby, Spencer, Sullivan, Switzerland, Union, Vanderburgh, Vermillion, Vigo, Warrick, Washington, and Wayne.

(2) ~~The following counties constitute the~~ Second District: Adams, Blackford, Carroll, Cass, Clinton, Delaware, Grant, Hamilton, Howard, Huntington, Jay, Madison, Marion, Miami, Tippecanoe, Tipton, Wabash, Wells, and White.

(3) ~~The following counties constitute the~~ Third District: Allen, Benton, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Warren, and Whitley.

(4) The entire state constitutes the Fourth District.

(5) The entire state constitutes the Fifth District.

SECTION 138. IC 33-2.1-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-2-3] Sec. 3. (a) Judges of the First, Second, and Third Districts of the court of appeals must have resided in their respective districts before appointment to the court. However, judges of the court of appeals appointed before July 1, 1993, must reside in the district from which they are appointed.

(b) The following requirements apply to judges of the Fourth and Fifth Districts of the court of appeals:

(1) One (1) judge must have resided in the First District before appointment to the court.

(2) One (1) judge must have resided in the Second District before

appointment to the court.

(3) One (1) judge must have resided in the Third District before appointment to the court.

(c) ~~Whenever~~ **When** a vacancy is created in the court of appeals, the individual who is appointed by the governor to fill such vacancy must be a resident of the district in which the vacancy occurred.

[33-2.1-2-2(c)] Sec. 4. ~~(c)~~ All districts of the court of appeals shall sit for the hearing and decision of causes in Indianapolis or ~~such other~~ **another** place ~~as~~ **that** the chief judge of the court of appeals ~~shall~~ **may** designate.

[33-2.1-2-2(d)] Sec. 5. ~~(d)~~ ~~All~~ **A** case appealed to the court of appeals shall be placed upon the docket of the district from which ~~such~~ **the** appeal ~~may have been~~ **is** taken. If, at any time, ~~in the opinion of the~~ court of appeals **believes** there is an undue disparity in the number of cases pending on the dockets of ~~those~~ **the** districts, the court of appeals may order the transfer of ~~such~~ cases as it ~~may deem~~ **considers** advisable from one (1) district to another.

SECTION 139. IC 33-3-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-1-8] Sec. 6. The judges of the court of appeals ~~shall be~~ **are** competent to sit as judges of the circuit, superior, and criminal courts.

Chapter 2. Retention of Judges

SECTION 140. IC 33-2.1-2-6, AS AMENDED BY P.L.202-1999, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-2-6(a)] Sec. 1. ~~(a)~~ ~~Justices and~~ Judges of ~~the supreme court and~~ the court of appeals shall be approved or rejected by the electorate of the state ~~pursuant to~~ **under** Article 7, Section 11 of the Constitution of the State of Indiana.

[33-2.1-2-6(b)] Sec. 2. ~~(b)~~ A ~~justice or~~ judge who wishes to be retained in office shall file a statement with the secretary of state, not later than noon July 15 of the year in which the question of retention of the ~~justice or~~ judge is to be placed on the general election ballot, indicating that the ~~justice or~~ judge wishes to have the question of the ~~justice's or~~ judge's retention placed on the ballot. The ~~justice's or~~ judge's statement must include a statement of the ~~justice's or~~ judge's name as:

(1) the ~~justice or~~ judge wants the ~~justice's or~~ judge's name to appear on the ballot; and

(2) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

[33-2.1-2-6(c)] Sec. 3. ~~(c)~~ This ~~subsection~~ **section** applies to a ~~justice or~~ judge:

(1) who does not file a statement under ~~subsection (b);~~ **section 2 of this chapter;** and

(2) whose term expires under Article 7, Section 11 of the Constitution of the State of Indiana during the year in which the

question of the retention of the justice or judge would have been placed on the general election ballot.

The term of a ~~justice or~~ judge expires December 31 of the year in which the question of the ~~justice's or~~ judge's retention would have been placed on the ballot.

[33-2.1-2-6(d)] Sec. 4. ~~(d)~~ This ~~subsection~~ **section** applies to a ~~justice or~~ judge:

(1) who files a statement under ~~subsection (b),~~ **section 2 of this chapter;** and

(2) whose retention is rejected by the electorate.

The term of a ~~justice or~~ judge ends when the secretary of state issues a certificate under IC 3-12-5-1 stating that the ~~justice or~~ judge has been removed. However, if the ~~justice or~~ judge has filed a petition for a recount under IC 3-12-11, the term of the ~~justice or~~ judge does not end until the state recount commission has issued a certificate under IC 3-12-11-18 stating that the electorate has rejected the retention of the ~~justice or~~ judge.

[33-2.1-2-6(e)] Sec. 5. ~~(e)~~ The question of approval or rejection of a ~~justice or~~ judge shall be placed on the general election ballot in the form prescribed by IC 3-11-2 and must state "Shall Judge ~~or Justice~~ (insert name (as permitted under IC 3-5-7) here) be retained in office?".

[33-2.1-2-6(f)] ~~(f)~~ Sec. 6. The statement filed under ~~subsection (b)~~ **section 2 of this chapter** must include a statement that the judge ~~or justice~~ requests the name on the judge's ~~or justice's~~ voter registration record be the same as the name the judge ~~or justice~~ uses on the statement. If there is a difference between the name on the judge's ~~or justice's~~ statement and the name on the judge's ~~or justice's~~ voter registration record, the officer with whom the statement is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the judge's ~~or justice's~~ voter registration record to be the same as the name on the judge's ~~or justice's~~ statement.

Chapter 3. Rules and Procedures

SECTION 141. IC 33-2.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-2-4] Sec. 1. ~~Chief Judge – Court of Appeals.~~ (a) The judges of the court of appeals shall select one **(1)** of their ~~number~~ **members** as chief judge of ~~such~~ **the** court. ~~and he~~ **The member selected** ~~shall retain~~ **retains** that office for ~~a period of~~ three **(3)** years ~~from~~ **after** the effective date of ~~his~~ **the member's** appointment, subject to reappointment in the same manner. ~~except that~~ **However,** a member of the court may resign the office of chief judge without resigning from the court. ~~During~~ **When** a vacancy in the office of chief judge ~~caused by~~ **occurs due to** absence, illness, incapacity, or resignation, ~~all~~ **the** powers and duties of the chief judge ~~shall~~ devolve upon the judge of the court of appeals who is senior in

length of service. ~~and~~ **However,** if **two (2) or more judges are** equal in length of service **and senior in length of service,** the determination **of chief judge** shall be by lot until ~~such time as~~ the cause of vacancy is terminated or the vacancy is filled.

(b) **The members of** each district, other than the district from which the chief judge was chosen, shall select one **(1)** of their ~~number~~ **members** as presiding judge of ~~their respective~~ **the** district.

SECTION 142. IC 33-3-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-1-9] Sec. 2. If ~~any~~ **a** judge ~~shall be kin~~ **of the court of appeals:**

(1) is related to a party; ~~or~~

(2) is interested in a cause; ~~or shall have been~~

(3) was a counsel ~~therein,~~ **in a cause;** or

(4) was the judge who rendered the decision ~~below,~~ **in a lower court that has been appealed to the court of appeals;** ~~he~~

the judge shall disqualify himself **or herself** and not sit ~~therein.~~ **to hear the cause.**

SECTION 143. IC 33-2.1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-2-5] Sec. 3. ~~Disqualification or Absence of a Judge. Whenever~~ **When** a judge disqualifies himself **or herself** or is otherwise unable to sit for the hearing or decision of a cause in ~~his~~ **the judge's** district, the chief judge shall assign a court of appeals judge to ~~said~~ **the disqualified or absent judge's** district for the hearing and decision of ~~said~~ **the** cause.

SECTION 144. IC 33-3-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-3-4] Sec. 4. ~~No~~ **Except as provided in IC 34-56-1, an** appeal ~~shall~~ **may not** be taken to the ~~supreme court or~~ court of appeals in any civil case where the amount in ~~the~~ controversy, exclusive of interest and costs, does not exceed fifty dollars ($50). ~~except as provided in IC 34-56-1.~~

SECTION 145. IC 33-3-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-1-10] Sec. 5. The hearing and argument of causes in the court **of appeals** shall be in accordance with:

(1) the rules of the supreme court as to hearing and argument; or ~~in accordance with such~~

(2) any rules ~~as~~ the court of appeals ~~may adopt.~~ **adopts.**

SECTION 146. IC 33-2.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-3-2] Sec. 6. The judicial opinion or decision in each case determined by ~~the supreme court or~~ the court of appeals shall be reduced to writing. Reports of these opinions and decisions ~~and written decisions of the tax court,~~ may be published and distributed in the manner prescribed by the supreme court.

SECTION 147. IC 33-3-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-2-15] Sec. 7. **(a)** In

every case reversed by a division of the court of appeals:

(1) an opinion shall be given on the material questions ~~therein~~ **in the case** in writing; and

(2) the appropriate judgment shall be entered, with directions to the lower court.

(b) In all cases, the opinion and judgment shall be certified to the lower court ~~at the expiration of~~ thirty (30) days ~~from~~ **after** the ~~time~~ **date** allowed by law for the filing of a petition for a rehearing, unless: ~~sooner~~

(1) an earlier date has been ordered by ~~such~~ **the** division; ~~or unless~~

(2) a petition for a rehearing ~~be~~ **is** filed; or

(3) the cause **is** transferred or appealed to the supreme court.

If a cause ~~be~~ **is** transferred or appealed to the supreme court, or a rehearing be granted, the judgment of the division of the court of appeals is ~~thereby~~ vacated. If a rehearing ~~be~~ **is** denied, the opinion and judgment shall, ~~after the expiration of~~ thirty (30) days ~~from~~ **after** the date of ~~such~~ **the** ruling, be certified to the lower court, unless the case ~~be~~ **is** transferred or appealed to the supreme court.

(c) If the losing party files a waiver of ~~his~~ **the party's** right to file a petition for a rehearing, the opinion shall be ~~at once~~ **immediately** certified to the lower court.

SECTION 148. IC 33-3-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-1-5] Sec. 8. All process, rules, and orders of ~~said~~ **the** court **of appeals** shall be executed and served by the sheriff of the county ~~to~~ **in** which ~~the same shall be~~ **a process, a rule, or an order has been** directed. ~~and said~~ **The** sheriff ~~shall be~~ **is** entitled to **collect** the fees allowed by law ~~at the time~~ for ~~like~~ **similar** service of process, rules, or orders ~~issuing from~~ **issued by** the supreme court.

SECTION 149. IC 33-3-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-1-4] Sec. 9. ~~Said~~ **The** court **of appeals** shall have a seal: ~~to be~~

(1) designed and provided by the secretary of state at the expense of the state; ~~having such device as the secretary shall determine,~~ and ~~on the face thereof;~~

(2) that contains the title of the court **on the face of the seal.**

Chapter 4. Personnel and Facilities

SECTION 150. IC 33-3-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-1-3] Sec. 1. The clerk and sheriff of the supreme court shall be clerk and sheriff ~~respectively~~ of the court of appeals.

SECTION 151. IC 33-2.1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-2-7] Sec. 2. ~~Personnel.~~ The court of appeals may appoint ~~such~~ personnel as the court determines ~~to be~~ necessary. The judges of each geographic

district may appoint law clerks, secretaries, and ~~such~~ other personnel ~~as may be~~ necessary for the holding of court and the administration of the court's duties.

SECTION 152. IC 33-3-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-1-6] Sec. 3. The custodian of public buildings and property shall provide rooms for the use of ~~said~~ **the** judges and ~~said~~ **the** court **of** appeals in Indianapolis. ~~and said~~ **The** court ~~shall have power to~~ **of appeals:**

(1) may:

(A) provide the necessary furniture ~~for the same~~ and stationery and **other** things ~~proper~~ **necessary** for the transaction of **the court's** business, at the expense of the state; and ~~to~~

(B) make allowances ~~therefor,~~ **for the items described in clause (A)** to be audited and paid out of the state treasury upon presentation of the order of allowance; and

(2) ~~shall have~~ **is entitled to** access to and use of the law library of the supreme court equally with the judges of the supreme court.

SECTION 153. IC 33-26 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 26. TAX COURT

Chapter 1. Establishment of the Indiana Tax Court

SECTION 154. IC 33-3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-1 part] Sec. 1. The Indiana tax court is established.

[33-3-5-1 part] Sec. 2. The tax court is a court of record.

Chapter 2. Tax Court Judge

SECTION 155. IC 33-3-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The tax court consists of one (1) judge.

SECTION 156. IC 33-3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The judge of the tax court must:

(1) be a citizen of Indiana; and

(2) have been admitted to the practice of law in Indiana for a period of at least five (5) years.

SECTION 157. IC 33-3-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The initial term of office of a person appointed to serve as the judge of the tax court begins on the effective date of that appointment and ends on the date of the next general election that follows the expiration of two (2) years from the effective date of that appointment.

(b) The tax court judge may be approved or rejected for an additional term or terms in the same manner as are the justices of the supreme court under ~~IC 33-2.1-2.~~ **????.**

SECTION 158. IC 33-3-5-6 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) Except as otherwise provided in this section, a vacancy on the tax court shall be filled as provided in ~~IC 33-2.1-4.~~ **????.**

(b) Before the expiration of the sixty (60) day period prescribed by ~~IC 33-2.1-4-10,~~ **????,** the governor shall:

(1) appoint to the tax court one (1) of the three (3) persons initially nominated by the judicial nominating commission; or

(2) reject all the persons initially nominated by the commission.

If the governor does reject all the nominees, the governor shall notify the chairman of the judicial nominating commission of that action. The commission shall then submit the nominations of three (3) new candidates to the governor not later than forty (40) days after receipt of the notice. The governor shall fill the vacancy on the tax court by appointing one (1) of the new candidates within sixty (60) days from the date the names of the new candidates are submitted by the commission.

SECTION 159. IC 33-3-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) The judge of the tax court is entitled to an annual salary equal to the annual salary provided in ~~IC 33-13-12-9~~ **????** to a judge of the court of appeals. In addition, the judge of the tax court is entitled to the following:

(1) Reimbursement for traveling expenses and other expenses actually incurred in connection with the judge's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(2) A subsistence allowance equal to the amount provided under ~~IC 33-13-12-9~~ **????** to a judge of the court of appeals who is not the chief judge of the court of appeals.

(b) The judge of the tax court:

(1) shall devote full time to judicial duties; and

(2) may not engage in the practice of law.

(c) The state shall pay the annual salary prescribed in subsection (a) from the state general fund.

(d) The state shall furnish an automobile to the judge of the state tax court.

SECTION 160. IC 33-3-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. If the judge of the tax court is disqualified from hearing a case or is incapable of exercising judicial duties with respect to the case, the chief justice of the supreme court shall appoint a judge pro tempore to sit in place of the disqualified or absent judge.

Chapter 3. Jurisdiction and Venue

SECTION 161. IC 33-3-5-2, AS AMENDED BY P.L.198-2001, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-2(a)] Sec. 1. ~~(a)~~ The tax court is a court of

limited jurisdiction. The tax court has exclusive jurisdiction over any case that arises under the tax laws of ~~this state~~ **Indiana** and that is an initial appeal of a final determination made by:

(1) the department of state revenue with respect to a listed tax (as defined in IC 6-8.1-1-1); or

(2) the Indiana board of tax review.

[33-3-5-2(b)] ~~(b)~~ Sec. 2. **In addition to the jurisdiction described in section 1 of this chapter,** the tax court ~~also~~ has:

(1) any other jurisdiction conferred by statute; and

(2) exclusive jurisdiction over any case that was an initial appeal of a final determination made by the state board of tax commissioners before January 1, 2002.

[33-3-5-2(c)] ~~(c)~~ Sec. 3. The cases over which the tax court has exclusive original jurisdiction are referred to as original tax appeals in this ~~chapter.~~ **article.** The tax court does not have jurisdiction over a case unless:

(1) the case is an original tax appeal; or

(2) the tax court has otherwise been specifically assigned jurisdiction by statute.

[33-3-5-2(d)] ~~(d)~~ Sec. 4. A taxpayer that appeals to the tax court shall, at the time the appeal is filed, elect to have all evidentiary hearings in the appeal conducted in one (1) of the following counties:

(1) Allen County.

(2) Jefferson County.

(3) Lake County.

(4) Marion County.

(5) St. Joseph County.

(6) Vanderburgh County.

(7) Vigo County.

[33-3-5-2(e)] ~~(e)~~ Sec. 5. A taxpayer that is an appellee in an appeal to the tax court shall, within thirty (30) days after it receives notice of the appeal, elect to have all evidentiary hearings in the appeal conducted in a county listed in ~~subsection (d).~~ **section 4 of this chapter.**

[33-3-5-2(f)] ~~(f)~~ Sec. 6. The tax court does not have jurisdiction over a case that is an appeal from a final determination made by the department of state revenue under IC 4-32 other than a final determination concerning the gaming card excise tax established under IC 4-32-15.

Chapter 4. Offices and Personnel

SECTION 162. IC 33-3-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-9] Sec. 1. **(a)** The tax court shall maintain its principal office in Indianapolis.

(b) The department of administration shall provide suitable facilities for the court in Indianapolis.

(c) If the court hears a case at a location outside Marion County, the

executive of the county in which the court sits shall provide the court with suitable facilities.

SECTION 163. IC 33-3-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-10] Sec. 2. **(a)** The tax court may employ:

(1) a bailiff;

(2) a clerk;

(3) a reporter;

(4) a clerical assistant; or

(5) any other personnel that the court needs to perform its duties.

(b) The clerk of the supreme court shall serve as the clerk of the tax court.

Chapter 5. Small Claims Docket

SECTION 164. IC 33-3-5-12, AS AMENDED BY P.L.90-2002, SECTION 458, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-12(a)] Sec. 1. ~~(a)~~ The tax court shall establish a small claims docket for processing:

(1) claims for refunds from the department of state revenue that do not exceed five thousand dollars ($5,000) for any year; and

(2) appeals of final determinations of assessed value made by the Indiana board of tax review that do not exceed forty-five thousand dollars ($45,000).

[33-3-5-12(b)] ~~(b)~~ Sec. 2. The tax court shall adopt rules and procedures under which cases on the small claims docket are heard and decided.

Chapter 6. Appellate Review; Rules and Procedures

SECTION 165. IC 33-3-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-13] Sec. 1. (a) The tax court shall try each original tax appeal without the intervention of a jury.

(b) The tax court shall adopt rules and procedures under which original tax appeals are heard and decided.

SECTION 166. IC 33-3-5-11, AS AMENDED BY P.L.90-2002, SECTION 457, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-11] Sec. 2. (a) A taxpayer who wishes to initiate an original tax appeal must file a petition in the tax court to set aside the final determination of the department of state revenue or the Indiana board of tax review. If a taxpayer fails to comply with any statutory requirement for the initiation of an original tax appeal, the tax court does not have jurisdiction to hear the appeal.

(b) A taxpayer who wishes to enjoin the collection of a tax pending the original tax appeal must file a petition with the tax court to enjoin the collection of the tax. The petition must set forth a summary of:

(1) the issues that the petitioner will raise in the original tax appeal; and

(2) the equitable considerations for which the tax court should

order the collection of the tax to be enjoined.

(c) After a hearing on the petition filed under subsection (b), the tax court may enjoin the collection of the tax pending the original tax appeal, if the tax court finds that:

(1) the issues raised by the original tax appeal are substantial;

(2) the petitioner has a reasonable opportunity to prevail in the original tax appeal; and

(3) the equitable considerations favoring the enjoining of the collection of the tax outweigh the state's interests in collecting the tax pending the original tax appeal.

(d) This section does not apply to a final determination of the department of state revenue under IC 4-32 other than a final determination concerning the gaming card excise tax established under IC 4-32-15.

SECTION 167. IC 33-3-5-14, AS AMENDED BY P.L.198-2001, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-14] Sec. 3. (a) Subject to subsection (b), with respect to determinations as to whether any issues or evidence may be heard in an original tax appeal that was not heard in the administrative hearing or proceeding, the tax court is governed by the law that applied before the creation of the tax court to appeals to trial courts of final determinations made by the department of state revenue and the state board of tax commissioners.

(b) Judicial review of disputed issues of fact must be confined to:

(1) the record of the proceeding before the Indiana board of tax review; and

(2) any additional evidence taken under section ~~14.5~~ **5** of this chapter.

The tax court may not try the cause de novo or substitute its judgment for that of the Indiana board of tax review. Judicial review is limited to only those issues raised before the Indiana board of tax review, or otherwise described by the Indiana board of tax review, in its final determination.

(c) A person may obtain judicial review of an issue that was not raised before the Indiana board of tax review only to the extent that the:

(1) issue concerns whether a person who was required to be notified of the commencement of a proceeding under this chapter was notified in substantial compliance with the applicable law; or

(2) interests of justice would be served by judicial resolution of an issue arising from a change in controlling law occurring after the Indiana board of tax review's action.

SECTION 168. IC 33-3-5-14.1, AS ADDED BY P.L.178-2002, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-14.1] Sec. 4. (a) The burden of demonstrating the invalidity of an action taken by the state board of tax commissioners is on the party to the judicial review proceeding

asserting the invalidity.

(b) The validity of an action taken by the state board of tax commissioners shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(c) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(d) The tax court shall grant relief under section ~~15~~ **7** of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the state board of tax commissioners that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of or short of statutory jurisdiction, authority, or limitations;

(4) without observance of procedure required by law; or

(5) unsupported by substantial or reliable evidence.

(e) Subsection (d) may not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

SECTION 169. IC 33-3-5-14.5, AS ADDED BY P.L.198-2001, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-14.5] Sec. 5. (a) This section applies instead of IC 4-21.5-5-12 with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The tax court may receive evidence in addition to that contained in the record of the determination of the Indiana board of tax review only if the evidence relates to the validity of the determination at the time it was taken and is needed to decide disputed issues regarding one (1) or both of the following:

(1) Improper constitution as a decision making body or grounds for disqualification of those taking the agency action.

(2) Unlawfulness of procedure or decision making process.

This subsection applies only if the additional evidence could not, by due diligence, have been discovered and raised in the administrative proceeding giving rise to a proceeding for judicial review.

(c) The tax court may remand a matter to the Indiana board of tax review before final disposition of a petition for review with directions that the Indiana board of tax review conduct further factfinding or that the Indiana board of tax review prepare an adequate record, if:

(1) the Indiana board of tax review failed to prepare or preserve an adequate record;

(2) the Indiana board of tax review improperly excluded or omitted evidence from the record; or

(3) a relevant law changed after the action of the Indiana board of

tax review and the tax court determines that the new provision of law may control the outcome.

(d) This subsection applies if the record for a judicial review prepared under IC 6-1.1-15-6 contains an inadequate record of a site inspection. Rather than remand a matter under subsection (c), the tax court may take additional evidence not contained in the record relating only to observations and other evidence collected during a site inspection conducted by a hearing officer or other employee of the Indiana board of tax review. The evidence may include the testimony of a hearing officer only for purposes of verifying or rebutting evidence regarding the site inspection that is already contained in the record.

SECTION 170. IC 33-3-5-14.8, AS ADDED BY P.L.198-2001, SECTION 103, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-14.8] Sec. 6. (a) This section applies instead of IC 4-21.5-5-14 with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The burden of demonstrating the invalidity of an action taken by the Indiana board of tax review is on the party to the judicial review proceeding asserting the invalidity.

(c) The validity of an action taken by the Indiana board of tax review shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(d) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(e) The tax court shall grant relief under section ~~15~~ **7** of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the Indiana board of tax review that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;

(4) without observance of procedure required by law; or

(5) unsupported by substantial or reliable evidence.

(f) Subsection (e) ~~shall~~ **may** not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

SECTION 171. IC 33-3-5-15, AS AMENDED BY P.L.90-2002, SECTION 459, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-15(a)] Sec. 7. (a) The tax court shall render its decisions in writing.

SECTION 172. IC 33-2.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-3-2] ~~The judicial opinion or decision in each case determined by the supreme court or the court of appeals shall be reduced to writing. Reports of these~~

~~opinions and decisions and~~ (b) Written decisions of the tax court may be published and distributed in the manner prescribed by the supreme court.

[33-3-5-15(b)] (c) ~~(b)~~ A decision of the tax court remanding the matter of assessment of property under IC 6-1.1-15-8 to the Indiana board of tax review shall specify the issues on remand on which the Indiana board of tax review is to act.

(d) ~~(c)~~ The decisions of the tax court may be appealed directly to the supreme court.

Chapter 7. Representation by State Attorney General

SECTION 45. IC 33-3-5-14.2, AS AMENDED BY P.L.178-2002, SECTION 111, IS AMENDED TO READ AS FOLLOWS: [33-3-5-14.2(a)] Sec. 1. The office of the attorney general shall represent a township assessor, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals that:

(1) made an original determination that is the subject of a judicial proceeding in the tax court; and

(2) is a defendant in a judicial proceeding in the tax court.

[33-3-5-14.2(b)] Sec. 2. Notwithstanding representation by the office of the attorney general, the duty of discovery is on the parties to the judicial proceeding.

[33-3-5-14.2(c)] Sec. 3. Discovery conducted under ~~subsection (b)~~ **section 2 of this chapter** ~~shall be~~ **is** limited to production of documents from the administrative law judge presiding over the review under IC 6-1.1-15-3. The administrative law judge ~~shall~~ **may** not be summoned to testify before the tax court unless verified proof is offered to the tax court that the impartiality of the administrative law judge was compromised concerning the review.

[33-3-5-14.2(d)] Sec. 4. A township assessor, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals:

(1) may seek relief from the tax court to establish that the Indiana board of tax review rendered a decision that was:

(A) an abuse of discretion;

(B) arbitrary and capricious;

(C) contrary to substantial or reliable evidence; or

(D) contrary to law; and

(2) may not be represented by the office of the attorney general in an action initiated under subdivision (1).

Chapter 8. Order to Produce Information

SECTION 173. IC 33-3-5-2.5, AS AMENDED BY P.L.178-2002, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-2.5(b)] Sec. 1. As used in this ~~section,~~ **chapter,** "contractor" means a general reassessment, general reassessment review, or special reassessment contractor of the

department of local government finance under IC 6-1.1-4-32.

[33-3-5-2.5(a)] Sec. 2. ~~(a)~~ As used in this ~~section,~~ **chapter,** "qualifying county" means a county having a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000).

~~(b) As used in this section, "contractor" means a general reassessment, general reassessment review, or special reassessment contractor of the department of local government finance under IC 6-1.1-4-32.~~

[33-3-5-2.5(c)] Sec. 3. ~~(c)~~ As used in this ~~section,~~ **chapter,** "qualifying official" refers to any of the following:

(1) A county assessor of a qualifying county.

(2) A township assessor of a qualifying county.

(3) The county auditor of a qualifying county.

(4) The treasurer of a qualifying county.

(5) The county surveyor of a qualifying county.

(6) A member of the land valuation committee in a qualifying county.

(7) Any other township or county official in a qualifying county who has possession or control of information necessary or useful for a general reassessment, general reassessment review, or special reassessment of property to which IC 6-1.1-4-32 applies, including information in the possession or control of an employee or a contractor of the official.

(8) Any county official in a qualifying county who has control, review, or other responsibilities related to paying claims of a contractor submitted for payment under IC 6-1.1-4-32.

[33-3-5-2.5(d)] Sec. 4. ~~(d)~~ Upon petition from the department of local government finance or a contractor, the tax court may order a qualifying official to produce information requested in writing from the qualifying official by the department of local government finance or the contractor.

[33-3-5-2.5(e)] Sec. 5. ~~(e)~~ If the tax court orders a qualifying official to provide requested information as described in ~~subsection (d),~~ **section 4 of this chapter,** the tax court shall order production of the information not later than fourteen (14) days after the date of the tax court's order.

[33-3-5-2.5(f)] Sec. 6. ~~(f)~~ The tax court may find that any willful violation of this ~~section~~ **chapter** by a qualifying official constitutes a direct contempt of the tax court.

Chapter 9. Fees

SECTION 174. IC 33-3-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-16] Sec. 1. When a complaint is filed, a taxpayer who initiates an original tax appeal shall pay to the clerk of the tax court the same fee as provided in IC 33-19-5-6 for actions in probate court.

SECTION 175. IC 33-3-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-17] Sec. 2. A witness who testifies before the tax court is entitled to receive the same fee and mileage allowance provided to witnesses who testify in a circuit court. The person who calls the witness to testify shall pay the witness fee and mileage allowance.

SECTION 176. IC 33-3-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-18] Sec. 3. The tax court may fix and charge a fee for preparing, comparing, or certifying a transcript. However, the tax court's fee may not exceed the fee charged by circuit courts for the same service.

SECTION 177. IC 33-3-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-19] Sec. 4. The clerk of the tax court shall collect the fees imposed under sections ~~16~~ **1** and ~~18~~ **3** of this chapter. The clerk shall transmit the fees to the treasurer of state. The treasurer shall deposit the fees in the state general fund.

SECTION 178. IC 33-3-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-3-5-20] Sec. 5. If a taxpayer prevails in a complaint that is placed on the small claims docket under ~~section 12 of this chapter,~~ **IC 33-26-5,** the tax court shall order the refund of the taxpayer's filing fee under section ~~16~~ **1** of this chapter from the state general fund. The auditor of state shall pay a warrant that is ordered under this section.

SECTION 179. IC 33-27 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 27. JUDICIAL NOMINATING COMMISSION

Chapter 1. Definitions

SECTION 180. IC 33-2.1-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-1-3 part] Sec. 1. The definitions in this ~~section have the following meanings~~ **chapter apply** throughout this article. ~~unless the context or subject matter otherwise requires:~~

[33-2.1-1-3(5)] Sec. 2. ~~(5)~~ "Attorney commissoners" means the three (3) individuals admitted to the practice of law who are elected to the judicial nominating commission by the electors.

[33-2.1-1-3(6)] Sec 3. ~~(6)~~ "Electors" means individuals who are attorneys in good standing admitted to the practice of law in Indiana.

[33-2.1-1-3(1)] Sec. 4. ~~(1)~~ "Judicial nominating commission" means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

[33-2.1-1-3(15)] Sec. 5. ~~(15)~~ "Mail" ~~and "mailed" include~~ **includes** ordinary mail or personal delivery.

[33-2.1-1-3(4)] Sec. 6. ~~(4)~~ "Nonattorney commissioners" means the three (3) individuals not admitted to the practice of law who are

appointed to the judicial nominating commission by the governor.

Chapter 2. Commissioners, Employees, and Staff

SECTION 181. IC 33-2.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-1] Sec. 1. (a) The governor shall appoint three (3) nonattorney citizens of Indiana, one (1) each from the First District, the Second District, and the Third District of the court of appeals, as commissioners of the judicial nominating commission.

(b) One (1) month ~~prior to~~ **before** the expiration of a term of office of a nonattorney commissioner, the governor shall either reappoint ~~such~~ **the** commissioner as provided in section 5 of this chapter or appoint a new nonattorney commissioner. All appointments made by the governor to the judicial nominating commission shall be certified to the secretary of state and to the clerk of the supreme court ~~within~~ **not later than** ten (10) days ~~of~~ **after** the appointment.

(c) Except as provided in subsection (e), the governor shall appoint each nonattorney commissioner for a term of three (3) years.

(d) ~~Each~~ **An** appointed nonattorney commissioner ~~shall~~ **must** reside in the court of appeals district for which ~~he~~ **the nonattorney commissioner** was appointed. A nonattorney commissioner ~~shall be~~ **is** considered ~~as having~~ **to have** resigned ~~his~~ **the** position if ~~he~~ **the residency of the nonattorney commissioner** changes ~~his residency~~ from the court of appeals district for which ~~he~~ **the nonattorney commissioner** was appointed.

(e) ~~Whenever~~ **When** a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the governor in writing. ~~of such fact.~~ Vacancies in the office of nonattorney commissioners shall be filled by appointment ~~of~~ **by** the governor ~~within~~ **not later than** sixty (60) days after ~~he has~~ **the governor receives** notice of ~~such~~ **the** vacancy. The term of the nonattorney commissioner ~~so~~ appointed **to fill the vacancy** ~~shall be~~ **is** for the unexpired term of the member whose vacancy ~~he~~ **the new nonattorney commissioner** has filled.

SECTION 182. IC 33-2.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-2] Sec. 2. (a) For purposes of electing **attorney** members to the judicial nominating commission, the state shall be divided into three (3) districts, ~~which shall correspond~~ **corresponding** to the First District, the Second District, and the Third District of the court of appeals.

(b) The qualified electors consist of the individuals who are registered with the clerk of the supreme court as attorneys in good standing under the requirements of the supreme court.

(c) The electors of each district shall elect one (1) resident of their ~~respective~~ district who is admitted to the practice of law in Indiana to the judicial nominating commission. The term of office of each elected member ~~shall be~~ **is** three (3) years, ~~commencing~~ **beginning** on the first

day of January following ~~his~~ **the** election. During the month ~~prior to~~ **before** the expiration of ~~each~~ **an** elected member's term of office, an election shall be held to fill the succeeding three (3) year term of office. Attorney commissioners on the commission ~~shall~~ **must** reside for the term of their office in the district from which they were elected. An attorney commissioner ~~shall be~~ **is** considered ~~as having~~ **to have** resigned ~~his~~ **the** position if ~~he~~ **the residency of the attorney commissioner** changes ~~his residency~~ from the court of appeals district for which ~~he~~ **the attorney commissioner** was elected.

(d) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the judicial nominating commission shall be filled for the unexpired term of the member creating the vacancy by a special election. An attorney commissioner who is elected to fill an unexpired term shall commence ~~his~~ **the attorney commissioner's** duties immediately upon the certification of ~~his~~ **the new attorney commissioner's** election to the secretary of state.

SECTION 183. IC 33-2.1-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-3] Sec. 3. The attorney commissioners of the judicial nominating commission shall be elected by the following process:

(1) The clerk of the supreme court shall, at least ninety (90) days ~~prior to~~ **before** the date of an election, send a notice by mail to the address for each qualified elector shown on the records of the clerk informing ~~them~~ **the electors** that nominations for the election must be made to the clerk of the supreme court at least sixty (60) days ~~prior to~~ **before** the election.

(2) A nomination in writing accompanied by a signed petition of thirty (30) electors from the nominee's district, and the written consent of the nominee shall be filed, **by mail or otherwise,** by any electors or group of electors admitted to the practice of law in Indiana who reside in the same district as the nominee, ~~by mail or otherwise,~~ in the office of the clerk of the supreme court at least sixty (60) days ~~prior to~~ **before** the election.

(3) The clerk of the supreme court shall prepare and print separate ballots for each court of appeals district. These ballots ~~shall~~ **must** contain the names and residence addresses of all nominees residing within the district for which the ballots are prepared, and whose written nominations, petitions, and written statements of consent have been received sixty (60) days ~~prior to~~ **before** the election.

(4) The ballot must read as follows:

Indiana Judicial Nominating Commission

BALLOT FOR DISTRICT ( )

To be cast by individuals residing in District ( ) and registered with the clerk of the supreme court as an attorney in good standing under the

requirements of the supreme court. Vote for one (1) member listed below for Indiana Judicial Nominating Commissioner for the term commencing _____.

District ( )

(Name) (Address)

(Name) (Address)

(Name) (Address)

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 Supreme Court of Indiana, Indianapolis, Indiana, not later than _____.

DESTROY BALLOT IF NOT USED

(5) **In each district,** the nominee ~~from a district~~ receiving the most votes from the district shall be elected.

(6) The clerk shall also supply with each ballot distributed ~~by him~~ a certificate, to be completed and signed and returned by the elector voting ~~such~~ **the** ballot, certifying that ~~he~~ **the voter** is registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court, and that ~~he~~ **the voter** voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(7) 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~~ **may** be placed. This envelope shall not be opened until the counting of the ballots.

(8) The clerk of the supreme court shall mail a ballot and **the** accompanying material to all electors at least two (2) weeks before the date of the election.

(9) The ballot and the accompanying certificate must be received by the clerk of the supreme court by 4 p.m. on the last day of the election period.

(10) Upon receiving the completed ballots and the accompanying certificate the clerk of the supreme court shall insure that the certificates have been completed in compliance with this article. 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.

(11) The clerk of the supreme court, with the assistance of the secretary of state and the attorney general, shall open and canvass all ballots after 4 p.m. on the last day of the election period in the office of the clerk of the supreme court. ~~No~~ **A** ballot received after 4 p.m. ~~are to~~ **may not** be counted unless the chief justice ~~of the state~~ orders an extension of time because of unusual circumstances. Upon canvassing the ballots the clerk of the supreme court shall place all ballots back in their packages.

These, along with the certificates, shall be retained in the clerk's office for ~~a period of~~ six (6) months, and the clerk ~~shall~~ **may not** permit ~~no one~~ **anyone** to inspect them except upon an order of the supreme court.

(12) ~~Within~~ **Not later than** ten (10) days after the election, the clerk shall certify the results to the secretary of state.

(13) In ~~any~~ **an** election held for selection of attorney commissioners of the judicial nominating commission, ~~in case~~ **if** two (2) or more nominees are tied, the canvassers shall resolve the tie by lot in ~~such~~ **a** manner ~~as~~ **that** they shall ~~adopt~~ **determine,** and the winner of the lot ~~shall be deemed~~ **is considered** to have been elected.

SECTION 184. IC 33-2.1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-4] Sec. 4. ~~Notification.~~ After the attorney commissioners have been elected, and after the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state as ~~this article so provides,~~ **provided in this chapter,** the clerk shall ~~by regular mail,~~ notify, **by regular mail,** the members of the commission of their election or appointment.

SECTION 185. IC 33-2.1-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-5] Sec. 5. A member of the judicial nominating commission may serve until ~~his~~ **the member's** successor is appointed or elected. ~~No~~ **An** attorney commissioner or **a** nonattorney commissioner ~~shall be~~ **is not** eligible for successive reelection or reappointment. ~~except that one~~ **However, an attorney commissioner or a nonattorney commissioner** who has been appointed or elected to fill a vacancy on the commission for less than one (1) year ~~shall be~~ **is** eligible upon the expiration of that term, if otherwise qualified, for a succeeding term.

SECTION 186. IC 33-2.1-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-14] Sec. 6. ~~Compensation. Each~~ **A** member of the judicial nominating commission shall serve without compensation for ~~his~~ **the member's** services, except for per diem and travel expenses and other necessary and reasonable expenses.

SECTION 187. IC 33-2.1-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The judicial nominating commission ~~shall have the authority to~~ **may** employ investigators and ~~such~~ **other** experts ~~as~~ **that** the commission ~~in its discretion~~ determines ~~to be~~ **are** necessary to carry out its functions and purposes. The commission may employ special counsel in ~~any~~ **a** proceeding if ~~determined by~~ the commission ~~to be~~ **determines the employment is** advisable.

(b) The division of state court administration shall serve the judicial nominating commission in performing **the commission's** statutory and

constitutional functions.

(c) The general assembly may appropriate ~~such~~ **the** sums ~~as~~ it ~~deems~~ **considers** necessary for ~~the~~ expenses ~~which~~ **that** may be incurred in the administration of this article.

SECTION 188. IC 33-2.1-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-13] Sec. 8. ~~Staff Duties.~~ (a) The staff of the judicial nominating commission shall make ~~such~~ **the** findings of fact concerning ~~those~~ individuals eligible to ~~fulfill~~ **fill** a vacancy in a judicial office as the commission directs.

(b) The staff shall compile biographical sketches of each nominee running for election to the judicial nominating commission. ~~Such~~ **The** information **compiled** shall be submitted to the clerk of the supreme court for mailing, **along** with the ballots, to qualified electors. ~~These~~ **The** biographical sketches ~~shall~~ **prepared under this subsection must** include **the following information for each nominee:**

(1) Name and address.

(2) Legal background, including:

(A) type of practice;

(B) law firm; **and**

(C) law school year of graduation, honors, other pertinent information.

(3) General educational background.

(4) A short statement by the nominee stating ~~his~~ **the nominee's** efforts and achievements in bringing about improvement and betterment of the administration of justice.

(5) Public offices or positions, **including:**

(A) all public salaried positions; **and**

(B) all services contributed to a public or charitable organization.

(6) Business and civic affairs.

(7) Any other pertinent information that the commission ~~deems~~ **considers** important.

(c) The staff shall carry out any other duties assigned to it by the general assembly and by the judicial ~~Nominateing~~ **nominating** commission when acting in that capacity and in its capacity as the commission on judicial qualifications.

SECTION 189. IC 33-2.1-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-15] Sec. 9. The commissioners, employees, and staff of the judicial nominating commission are immune from civil liability for any act or proceeding taken, or communication or statement made, relevant to the evaluation of a candidate under ~~section 7 of this chapter.~~ **?????.**

SECTION 190. IC 33-2.1-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-16] Sec. 10. An agency, **an** organization, **a** person, or **an** association described in ~~section 7(c) of this chapter~~ **??????** is immune from civil liability for

providing information or assistance in an investigation under ~~section 7 of this chapter~~ **?????** or for testifying before the judicial nominating commission if:

(1) the information or testimony is relevant to the evaluation of a candidate under ~~section 7(a) of this chapter,~~ **????;** and

(2) the information or testimony is:

(A) an expression of opinion; or

(B) a statement of fact made without:

(i) knowledge that the statement is false; or

(ii) reckless disregard for the truth.

Chapter 3. Duties of the Commission; Appointments to Judicial Office

SECTION 191. IC 33-2.1-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-6] Sec. 1. **(a)** When a vacancy occurs in the supreme court, the court of appeals, or the tax court, the clerk of the court shall promptly notify the chairman of the commission of ~~such~~ **the** vacancy.

(b) The chairman shall call a meeting of the commission ~~within~~ **not later than** twenty (20) days ~~following such~~ **after receiving the** notice.

(c) The commission shall submit **the** nominations of three (3) candidates for ~~each~~ **the** vacancy and certify them to the governor as promptly as possible, ~~and in any event~~ **but** not later than seventy (70) days ~~from~~ **after** the time ~~such~~ **the** vacancy occurs.

(d) When it is known that a vacancy will occur at a definite future date, but the vacancy has not yet occurred, the clerk shall notify the commission immediately ~~thereof,~~ **of the future vacancy,** and the commission may, ~~within~~ **not later than** sixty (60) days ~~of such~~ **after receiving the** notice of ~~such~~ **the** vacancy, make ~~its~~ nominations and submit to the governor the names of three (3) persons nominated for ~~such forthcoming~~ **the future** vacancy.

SECTION 192. IC 33-2.1-4-7, AS AMENDED BY P.L.37-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-7] Sec. 2. (a) The judicial nominating commission shall submit to the governor, from among all those names the commission considers for a vacancy, the names of only the three (3) most highly qualified candidates. In determining which candidates are most highly qualified each commission member shall evaluate each candidate, in writing, on the following considerations:

(1) Legal education, including law schools attended and postlaw school education, and any academic honors and awards achieved.

(2) Legal writings, including ~~but not limited to~~ legislative draftings, legal briefs, and contributions to legal journals and publications.

(3) Reputation in the practice of law, as evaluated by attorneys and judges with whom the candidate has had professional contact, and the type of legal practice, including experience and reputation

as a trial lawyer or trial judge.

(4) Physical condition, including general health, stamina, vigor, and age.

(5) Financial interests, including any ~~such~~ interest ~~which~~ **that** might conflict with the performance of judicial responsibilities.

(6) Activities in public service, including writings and speeches concerning public affairs and contemporary problems, and efforts and achievements in improving the administration of justice.

(7) Any other pertinent information ~~which~~ **that** the commission feels is important in selecting the most highly qualified individuals for judicial office.

(b) The commission ~~shall~~ **may** not make an investigation to determine these considerations until the individual states in writing that the individual desires to hold a judicial office that has been or will be created by a vacancy and that the individual consents to the public disclosure of information under subsections (d) and (g).

(c) The commission shall inquire into the personal and legal backgrounds of each candidate by investigations made independent from the statements on an application of the candidate or in an interview with the candidate. In completing these investigations the commission ~~in its discretion,~~ may use information provided by or the assistance of:

(1) a law enforcement agency;

(2) any organization of lawyers, judges, or individual practitioners; or

(3) any other person or association.

(d) The commission shall publicly disclose the names of all candidates who have filed for judicial appointment after the commission has received the consent required by subsection (b) but before the commission has begun to evaluate any of the candidates. If the commission's screening of the candidates for judicial appointment occurs in an executive session conducted under IC 5-14-1.5-6.1(b)(10), the screening may not reduce the number of candidates for further consideration to fewer than ten (10) individuals unless there are fewer than ten (10) individuals from which to choose before the screening. When the commission's screening has reduced the number of candidates for further consideration to not less than ten (10) or it has less than ten (10) eligible candidates otherwise from which to choose, the commission shall:

(1) publicly disclose the names of ~~those~~ **the** individuals and their applications before taking any further action; and

(2) give notice of any further action in the same manner that notice is given under IC 5-14-1.5.

(e) Information described in subsection (d)(1) is identifying information for the purposes of IC 5-14-1.5-6.1(b)(10).

(f) The commission shall submit with the list of three (3) nominees

to the governor ~~their~~ **its** written evaluation of each ~~such~~ nominee, based on ~~those~~ **the** considerations ~~stated~~ **set forth** in subsection (a). The list of names submitted to the governor and the written evaluation of each nominee shall be publicly disclosed by the commission.

(g) Notwithstanding IC 5-14-3-4, all public records (as defined in IC 5-14-3-2) of the judicial nominating commission are subject to IC 5-14-3-3, including records described in IC 5-14-3-4(b)(12). However, the following records are excepted from public inspection and copying at the discretion of the judicial nominating commission:

(1) Personnel files of commission employees and files of applicants for employment with the commission to the extent permitted under IC 5-14-3-4(b)(8).

(2) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1, unless the records are prepared for use in the consideration of a candidate for judicial appointment.

(3) Investigatory records prepared for the commission under subsection (c) until:

(A) the records are filed or introduced into evidence in connection with the consideration of a candidate;

(B) the records are publicly discussed by the commission in connection with the consideration of a candidate;

(C) a candidate elects to have the records released by the commission; or

(D) the commission elects to release the records that the commission considers appropriate in response to publicly disseminated statements relating to the activities or actions of the commission;

whichever occurs first.

(4) Applications of candidates for judicial appointment who are not among the applicants eligible for further consideration following the commission's screening under subsection (d).

(5) The work product of an attorney (as defined by IC 5-14-3-2) representing the commission.

(h) When an event described by subsection (g)(3) occurs, the investigatory record becomes available for public inspection and copying under IC 5-14-3-3.

(i) As used in this subsection, "attributable communication" refers to a communication containing the sender's name, address, and telephone number. The commission shall provide a copy of all attributable communications ~~regarding~~ **concerning** a candidate for judicial appointment to each member of the commission. An attributable communication becomes available for public inspection and copying under IC 5-14-3-3 after a copy ~~has been~~ **is** provided to each member of the commission. The commission may not consider a communication other than an attributable communication in evaluating

~~any~~ **a** candidate for judicial appointment.

(j) The commission shall release the investigatory records prepared for the commission under subsection (c) to the candidate for judicial appointment described by the records.

SECTION 193. IC 33-2.1-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-9] Sec. 3. ~~Withdrawal of Candidate and Multiple Vacancies.~~ If ~~any~~ **a** nominee dies or requests in writing that ~~his~~ **the nominee's** name be withdrawn, the commission shall nominate another person to replace ~~him~~ **the nominee** from the list of nominees previously provided. Whenever ~~there are existing at the same time~~ 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 such vacancies.~~ **vacancy and submit a list of the persons nominated to the governor.**

SECTION 194. IC 33-2.1-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-10] Sec. 4. ~~In the event of the failure of~~ **(a) If** the governor **fails** to make an appointment ~~within the~~ **not later than** sixty (60) days ~~from~~ **after** the date the names of the nominees are submitted to ~~him,~~ **the governor,** the chief justice ~~of the State~~ shall make the appointment from ~~such~~ **the** nominees. ~~Any~~

(b) A change in a list submitted to the governor ~~pursuant to~~ **under** section ~~9~~ **[3]**of this chapter ~~shall~~ requires a resubmission of the altered list to the governor, and the sixty (60) day period in which the governor must make the appointment ~~shall~~ begins on the date of resubmission.

SECTION 195. IC 33-2.1-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-11] Sec. 5. An individual appointed to the supreme court, the court of appeals, or the tax court by the governor shall commence the duties of ~~his~~ **the individual's** office immediately upon the effective date of ~~his~~ **the** appointment. ~~No~~ **An** appointment to a judicial office ~~shall become effective~~ **does not take effect** until a vacancy for ~~such~~ **the** office exists.

SECTION 196. IC 33-2.1-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-8] Sec. 6. (a) The judicial nominating commission shall meet ~~from time to time~~ **periodically** as ~~may be~~ necessary to discharge **the commission's** responsibilities under the Constitution of the State of Indiana and the **state** laws. ~~of the state.~~ Meetings of the commission shall be called by **the** chairman, or ~~in the event of~~ **if** the ~~chairman's failure~~ **chairman fails** to call a meeting when a meeting ~~may be~~ **is** necessary, upon the call of any four (4) members of the commission. Whenever a meeting is called, the chairman shall give each member of the commission at least five (5) days written notice by mail of the time and place of ~~every~~ **the** meeting unless the commission at its previous meeting designated the time and place of **the** next meeting.

(b) Meetings of the commission ~~are to~~ **must** be held at ~~such~~ a place in Indiana, as **arranged by** the chairman of the commission. ~~may~~

~~arrange.~~

(c) The commission shall act only at a meeting and may act only on the concurrence of a majority of **the** members attending a meeting. The commission may not vote to reduce the number of candidates for further consideration or to submit or not submit the list of nominees under subsection (e) during an executive session. Four (4) members constitute a quorum.

(d) The commission may adopt reasonable and proper rules for the conduct of its proceedings and the discharge of its duties. The rules must comply with this chapter and include procedures by which eligible candidates for a vacancy in the supreme court or court of appeals may submit their names to the commission. The rules are public records, and the meetings of the commission at which the rules are considered for initial adoption or amendment must be publicly announced and open to the public.

(e) Notwithstanding IC 5-14-1.5-2, the commission is a public agency for the purposes of IC 5-14-1.5. The commission may meet in executive session under IC 5-14-1.5-6.1 for the consideration of a candidate for judicial appointment if:

(1) notice of the executive session is given in the manner prescribed by IC 5-14-1.5-5;

(2) all interviews of candidates are conducted at meetings open to the public; and

(3) copies of all attributable communications concerning the candidates (as defined in section ~~7~~ **[2]** of this chapter) have been provided to all commission members and made available for public inspection and copying.

Chapter 4. Appointment of Senior Judges

SECTION 197. IC 33-2.1-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-4-17(a)] Sec. 1. ~~(a)~~ A person who desires to serve as a senior judge under ~~IC 33-4-8~~ **????** may apply to the judicial nominating commission for certification **to the supreme court** as a senior judge. ~~to the supreme court.~~

[33-2.1-4-17(b)] Sec. 2. ~~(b)~~ The judicial nominating commission shall certify to the supreme court a person desiring to serve as a senior judge if the person meets requirements for service as a senior judge set by the supreme court under ~~IC 33-2-1-8.~~ **????.**

[33-2.1-4-17(c)] Sec. 3. ~~(c)~~ **(a)** Except as provided in subsection ~~(d),~~ **(b),** a person may not be certified under this section if:

(1) the person:

(A) has not served as a judge or justice; or

(B) is still serving as a judge or justice;

of a court of record in Indiana;

(2) the person is not available for the minimum period of commitment for service as a senior judge specified by the supreme court ~~in IC 33-2-1-8;~~ **under ????;** or

(3) the combination of:

(A) the compensation for senior judges set under ~~IC 33-4-8-5,~~ **????;** and

(B) any retirement benefits that the person is receiving or is entitled to receive;

exceeds the minimum compensation to which judges of the circuit court are entitled under ~~IC 33-13-12.~~ **????.**

[33-2.1-4-17(d)] ~~(d)~~ **(b)** A person who elects to forgo retirement benefits during the period of commitment as a senior judge may be certified as a senior judge under ~~subsection (b)~~ **section 2 of this chapter** upon verification by the judicial nominating commission of the availability to the person of ~~such an~~ **the** election.

SECTION 198. IC 33-28 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 28. CIRCUIT COURTS

Chapter 1. Jurisdiction, Duties, and Powers

SECTION 199. IC 33-4-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-4-2] Sec. 1. The circuit court shall be held in the respective counties at ~~such~~ times as may be fixed by law. ~~Said~~ **The** court shall be styled " _____ Circuit Court," according to the name of the county in which it may be held.

SECTION 200. IC 33-4-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-4-3] Sec. 2. (a) The circuit court has original jurisdiction in all civil cases and in all criminal cases, except where exclusive jurisdiction is conferred by law upon other courts of the same territorial jurisdiction.

(b) The circuit court also has ~~such~~ **the** appellate jurisdiction ~~as~~ **that** may be conferred by law upon it.

SECTION 201. IC 33-4-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-2-9] Sec. 3. The ~~judges~~ **judge** of ~~such~~ **a** circuit ~~courts,~~ **court,** within ~~their respective districts,~~ **the judge's district,** shall take all necessary recognizances to keep the peace, or to answer any criminal charge, or offense, in the court having jurisdiction.

SECTION 202. IC 33-4-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-2-2] Sec. 4. ~~Where there shall be occasion for any~~ **If there is a** process for which ~~no~~ **a** form is **not** prescribed by law, ~~such~~ **a circuit** court shall frame a new writ in conformity with the principles ~~thereof.~~ **of the process.**

[NEW] **Sec. 5. A circuit court may do the following:**

[33-4-2-1] (1) ~~They shall have power to~~ Issue and direct all processes ~~to courts of inferior jurisdiction, and to corporations and individuals which shall be~~ necessary to the regular execution of the law **to the following:**

(A) A court of inferior jurisdiction.
(B) A corporation.
(C) An individual.

[33-4-2-3] (2) ~~Such courts shall have power to~~ Make all proper judgments, sentences, decrees, orders, and injunctions, and ~~to~~ issue all processes, and to do ~~such~~ other acts as may be proper to carry into effect the same, in conformity with the constitution and laws of this state.

[33-4-2-8] (3) ~~The said circuit courts, respectively, shall have full authority to~~ Administer all necessary oaths.

(4) ~~and to~~ Punish, by fine **or** ~~and~~ imprisonment, or ~~either,~~ **both,** all contempts of ~~their~~ **the court's** authority.

(5) ~~and~~ Process in any matter before ~~them,~~ **the court,** or ~~by~~ **in any matter in** which the proceedings of the court, or the due course of justice, is interrupted.

[33-4-2-5] (6) ~~Such courts shall also have power and authority to~~ Grant commissions for the examination of witnesses, according to the regulations of law.

SECTION 203. IC 33-4-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-2-4] Sec. 6. When the subject matter of ~~any such~~ **a circuit** court ~~shall be situate~~ **is situated** in two (2) or more counties, the court ~~which shall first take~~ **that takes** cognizance ~~thereof~~ **of the matter first** shall retain the ~~same.~~ **matter.**

SECTION 204. IC 33-4-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-2-6] Sec. 7. The circuit court of each county shall have a seal. A description of ~~which,~~ **the seal must be** signed by the judge devising the ~~same, shall~~ **seal. The seal must** be filed by the clerk and recorded.

SECTION 205. IC 33-4-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-2-7] Sec. 8. **(a) This section applies to a new county in which a seal has not been devised for the county's circuit court.**

~~In all new counties, where seals for the circuit courts thereof have not been devised, it shall be lawful for the clerks thereof to seal all papers, where the seal of such courts shall be required by law, with their own private seal, and the same shall have like force as if they had been sealed with a seal devised by such courts.~~ **(b) The clerk of a circuit court located in a county subject to this section may seal all papers required by law to be sealed with the seal of the circuit court with the clerk's private seal. Papers sealed with the clerk's seal under this section are considered to have been sealed with a seal devised by the circuit court.**

SECTION 206. IC 33-4-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-2-10] Sec. 9. ~~There shall be no discontinuance of any~~ **A** suit, process, matter, or proceeding ~~whatever~~ returnable to or pending in any circuit court **may not be**

discontinued by reason of a failure of the judge to attend on the first or any other day of the term.

SECTION 207. IC 33-4-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-2-11] Sec. 10. If, at any time ~~there shall be no~~ **both the** sheriff ~~nor~~ **and the** coroner **are unable** to attend, or if the sheriff and coroner ~~shall both be~~ **are both** incapacitated from serving, the board of county commissioners ~~shall have power to~~ **may** appoint an elisor to serve during the pendency of the matter in which ~~such officer may be~~ **the sheriff and coroner are** disabled from serving.

SECTION 208. IC 33-4-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-2-12] Sec. 11. ~~Such~~ **An** elisor **appointed under section 10 of this chapter** shall take the ~~like~~ **same** oath and give the ~~like~~ **same** bond and surety ~~as~~ **that** are required of sheriffs. ~~and~~ **The elisor** ~~shall have~~ **has** the same authority to perform all the duties of the sheriff ~~which shall~~ **that** relate to the service for which ~~he~~ **the elisor** ~~may be thus~~ **is** specially appointed. ~~and shall be~~ **The elisor is** governed by the same rules and ~~be~~ subject to the ~~like~~ **same** penalties and liabilities **as the sheriff.**

Chapter 2. Election of Judges

SECTION 209. IC 33-4-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-4-1(a)] Sec. 1. (a) A judge of the circuit court shall be elected under IC 3-10-2-11 by the voters of each circuit.

[33-4-4-1(b)] Sec. 2. ~~(b)~~ In any circuit for which ~~IC 33-4-1~~ **????** provides more than one (1) judge of the circuit court, the county election board shall assign a number to each seat on the court. After that, any candidate for judge of the circuit court must file a declaration of candidacy under IC 3-8-2 or petition of nomination under IC 3-8-6 for one (1) specified seat of the court. Each seat on the court shall be listed separately on the election ballot in the form prescribed by IC 3-10-1-19 and IC 3-11-2.

Chapter 3. Small Claims and Misdemeanors Division

SECTION 210. IC 33-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-3-5] Sec. 1. This chapter applies to each circuit court for which this ~~article~~ **title** provides a standard small claims and misdemeanor division.

SECTION 211. IC 33-4-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-3-6] Sec. 2. The small claims and misdemeanor division of the court has the following dockets:

(1) A small claims docket.

(2) A minor offenses and violations docket.

SECTION 212. IC 33-4-3-7, AS AMENDED BY P.L.2-2002, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-4-3-7] Sec. 3. **(a)** The small claims docket has

jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three thousand dollars ($3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three thousand dollars ($3,000) 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 three thousand dollars ($3,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

(b) This section expires July 1, 2005.

SECTION 213. IC 33-4-3-7, AS AMENDED BY P.L.167-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. **(a) This section applies after June 30, 2005.**

(b) The small claims docket has jurisdiction over the following:

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

SECTION 214. IC 33-4-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-3-8] Sec. 5. (a) The exceptions provided in this section to formal practice and procedure apply to all cases on the small claims docket.

(b) A defendant is deemed to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance constitutes a general denial and preserves all defenses and compulsory counterclaims, which may then be presented at the trial of the cause.

(c) If, at the trial of the cause, the court determines:

(1) that the complaint is so vague or ambiguous that the defendant was unable to determine the nature of plaintiff's claim; or

(2) that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(d) The trial shall be conducted informally, with the sole objective

of dispensing speedy justice between the parties according to the rules of substantive law. The trial is not bound by the statutes or rules governing practice, procedure, pleadings, or evidence except for provisions relating to privileged communications and offers of compromise.

SECTION 215. IC 33-4-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-3-9] Sec. 6. There is no change of venue from the county as of right in cases on the small claims docket. However, a change of venue from the judge shall be granted as provided by statute and by rules of the supreme court. ~~of Indiana.~~

SECTION 216. IC 33-4-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-3-10] Sec. 7. (a) The filing of a claim on the small claims docket is ~~deemed~~ **considered** a waiver of trial by jury.

(b) The defendant may, not later than ten (10) days following service of the complaint in a small claims case, demand a trial by jury by filing an affidavit that:

(1) states that there are questions of fact requiring a trial by jury;

(2) specifies those questions of fact; and

(3) states that the demand is in good faith.

(c) Notice of the defendant's right to a jury trial, and the ten (10) day period in which to file for a jury trial, ~~shall~~ **must** be clearly stated on the notice of claim or on an additional sheet to be served with the notice of claim on the defendant.

(d) Upon the deposit of seventy dollars ($70) in the small claims docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim then loses its status as a small claim.

SECTION 217. IC 33-4-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-3-11] Sec. 8. (a) The minor offenses and violations docket has jurisdiction over the following:

(1) All Class D felony cases.

(2) All misdemeanor cases.

(3) All infraction cases.

(4) All ordinance violation cases.

(b) The court shall establish a traffic violations bureau in the manner prescribed by IC 34-28-5-7 through IC 34-28-5-13.

SECTION 218. IC 33-4-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-3-12] Sec. 9. (a) The court shall provide by rule for an evening session to be held once each week.

(b) The court shall hold additional sessions in the evening and on holidays as necessary to insure the just, speedy, and inexpensive determination of every action.

SECTION 219. IC 33-4-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-3-13] Sec. 10. The court shall comply with all requests made under [IC 33-2.1-7-3] by the executive director of state court administration concerning the small claims and misdemeanor division.

Chapter 4. Jury Commissioners and Jury Service

SECTION 220. IC 33-4-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5-11] Sec. 1. (a) This chapter does not apply to a county that chooses under subsection (b) to follow the procedure for jury selection and service set out in ~~IC 33-4-11.~~ **????.**

(b) The court administrator or the clerk of the circuit and superior courts of a county may choose to follow the procedure for jury selection and service set out in ~~IC 33-4-11~~ **????** instead of the procedure set out in this chapter. The court administrator shall serve as the jury commissioner under ~~IC 33-4-11.~~ **????.** If the decision to follow ~~IC 33-4-11~~ **????** is made, all ~~of~~ the provisions of ~~IC 33-4-11~~ **????** must be followed.

SECTION 221. IC 33-4-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5-1] Sec. 2. **(a)** The circuit court shall, during ~~the month of~~ November, appoint for the next calendar year two (2) persons, at least one (1) of whom shall be a resident of the town or city in which the court shall be held, as jury commissioners**.**

~~who~~ **(b) The jury commissioners appointed under subsection (a)** ~~shall~~ **must** be freeholders and voters of the county, well known to be of opposite politics, and of good character for intelligence, morality, and integrity.

~~and~~ **(c) The circuit court shall** cause ~~them~~ **the jury commissioners** to appear and take an oath or affirmation in open court, to be entered of record in the order-book of the court in the following form: "You do solemnly swear (or affirm) that you will honestly, and without favor or prejudice, perform the duties of jury commissioners during your term of office, that, in selecting persons to be drawn as jurors, you will select none but persons whom you believe to be of good repute for intelligence and honesty, that you will select none whom you have been or may be requested to select, and that, in all of your selections, you will endeavor to promote only the impartial administration of justice.".

(d) After entering the oath required under subsection (c), the court shall ~~thereupon~~ instruct ~~them~~ **the jury commissioners** concerning their duties.

SECTION 222. IC 33-4-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5-2] Sec. 3. (a) The **jury** commissioners shall immediately, from the names of legal voters

and citizens of the United States on the latest tax duplicate and the tax schedules of the county, examine for the purpose of determining the sex, age, and identity of prospective jurors, and proceed to select and deposit, in a box furnished by the clerk for that purpose, the names, written on separate slips of paper of uniform shape, size, and color, of twice as many persons as will be required by law for grand and petit jurors in the courts of the county, for all the terms of ~~such~~ **the** courts, to ~~commence~~ **begin** with the **following** calendar year. ~~next ensuing.~~

(b) Each selection shall be made as nearly as possible in proportion to the population of each county commissioner's district. In making ~~such~~ **the** selections, ~~they~~ **the jury commissioners** shall in all things observe their ~~oath,~~ **oaths.** ~~and they~~ **The jury commissioners** shall not select the name of any person who is to them known to be interested in or has cause pending which may be tried by a jury to be drawn from the names so selected.

~~They~~ **(c) The jury commissioners** shall deliver the box, locked, to the clerk of the circuit court, after having deposited ~~therein~~ **into the box** the names as ~~herein~~ directed **under this section.** The key shall be retained by one (1) of the **jury** commissioners, **who may** not **be** an adherent of the same political party as ~~is~~ the clerk.

~~(b)~~ **(d)** In a county containing a consolidated city, the **jury** commissioners may, upon an order made by the judge of the circuit court and entered in the records of the circuit court of the county, make ~~such~~ **the** selections and ~~such~~ deposits **required under this section** monthly instead of annually. ~~and~~ **The jury commissioners** may omit the personal examination of prospective jurors, the examination of voters lists, and make selection without reference to **county** commissioners' districts. The judge of the circuit court in ~~any such~~ **a** county containing a consolidated city may **do the following:**

(1) Appoint a secretary for the jury commissioners, and sufficient stenographic aid and clerical help to properly perform the duties of the **jury** commissioners.

~~and may~~ **(2)** Fix the salaries of the commissioners, the secretary, and stenographic and clerical employees.

~~and may also~~ **(3)** Provide office quarters and necessary supplies ~~therefor, all of which~~ **for the jury commissioners and their employees.**

The expenses incurred under this subsection shall be paid for from the treasury of the county upon the order of the court.

~~(c)~~ **(e)** Subject to appropriations made by the county fiscal body, the jury commissioners may ~~utilize~~ **use** a computerized jury selection system. However, the system ~~utilized~~ **used** for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors

selected under the computerized jury selection system must be eligible for selection under this chapter. The commissioners shall deliver the names of the individuals selected to the clerk of the circuit court. The commissioners shall observe their oath in all activities taken under this subsection.

~~(d)~~ **(f)** The jury commissioners may supplement voter registration lists and tax schedules under subsection (a) with names from lists of persons residing in the county that the jury commissioners may designate as necessary to obtain a cross section of the population of each county commissioner's district. The lists designated by the jury commissioners under this subsection must be used for the selection of jurors throughout the entire county.

~~(e)~~ **(g)** The supplemental sources designated under subsection ~~(d)~~ **(f)** may consist of such lists as those of utility customers, persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. These supplemental lists may not be substituted for the voter registration list. The jury commissioners may not draw more names from supplemental sources than are drawn from the voter registration lists and tax schedules.

SECTION 223. IC 33-4-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5-3] Sec. 4. ~~Whenever any such~~ **When a** court ~~shall be of the opinion,~~ **believes** that by reason of numerous challenges in any cause, a special venire should issue for jurors, ~~it~~ **the court** shall direct the clerk to draw from ~~said such~~ **the** box **described in section 3 of this chapter the** number of names ~~as shall be deemed~~ **considered** proper. ~~and~~ The persons ~~so~~ drawn **under this section** shall be summoned by virtue of ~~such~~ **the** special venire. If:

~~by reason of such special drawing or otherwise,~~ **(1)** the names in ~~such~~ **the** box ~~shall be~~ **are** exhausted **for any reason; and**

~~so that any of the courts~~ **(2) a court** of the county cannot be furnished with juries at any term during the calendar year;

the circuit court, or judge ~~thereof~~ **of the circuit court** in vacation, shall by order require ~~such~~ **the** jury commissioners at a time to be fixed, to deposit in ~~said~~ **the** box ~~such~~ **the** additional number of names as ~~said~~ **the** court or judge shall name in the order. ~~and they~~ **Additional jurors** shall be selected under the rules and regulations prescribed in section ~~2~~ **3** of this chapter. ~~and~~ The box shall then be delivered to the clerk, as ~~in that section~~ provided **under section 3 of this chapter,** to be drawn by the clerk as may be necessary under ~~the provisions of~~ section [9] of this chapter.

SECTION 224. IC 33-4-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5-4] Sec. 5. ~~Said~~ **The** box **described in section 3 of this chapter** shall remain in possession of the clerk, securely locked. ~~and~~ The only key ~~thereto, shall be and~~ **to**

the box must remain in the possession of the jury commissioner, of opposite politics from ~~said~~ **the** clerk. ~~who~~ **The clerk** shall be present ~~at~~ each ~~and every~~ time ~~said~~ **the** box is ~~to be~~ opened, for any purpose ~~within the provisions of~~ **under** this chapter.

SECTION 225. IC 33-4-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5-5] Sec. 6. ~~No person shall be appointed a jury commissioner who, at the time is party to, or interested in a cause pending in the county, which may be tried by a jury to be drawn during the calendar year next succeeding his appointment.~~ **(a) A person may not be appointed a jury commissioner if, at the time of the appointment, the person is:**

(1) a party to; or

(2) interested in;

a cause pending in the county that may be tried by a jury to be drawn during the calendar year following the year of the appointment.

~~Any~~ **(b) A** person appointed a jury commissioner, who ~~shall fail~~ **fails** to take ~~upon himself said~~ **the** office, or having accepted the ~~same, shall fail,~~ **office, fails** without good cause, to discharge any of the duties ~~thereof, shall be deemed~~ **of the office, is** guilty of contempt of the court. ~~and~~ **A person guilty of contempt under this section** shall be summarily punished by fine, of ~~not less than~~ **at least** five ($5~~.00~~) ~~nor~~ **and not** more than one hundred dollars ($100).

SECTION 226. IC 33-4-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5-6] Sec. 7. ~~Should a vacancy occur in the office of jury commissioner, at any time, or should any such commissioner fail to act when required, or because of illness or for any other cause, be unable to act,~~ **(a)** The circuit court shall appoint a person to fill ~~such~~ **a** vacancy, or to act for ~~the time being~~ **a jury commissioner,** as the case may require, **if:**

(1) a vacancy occurs in the office of jury commissioner;

(2) a jury commissioner fails to act when required; or

(3) illness or any other cause renders a jury commissioner unable to act.

~~and such~~ **(b) A** person ~~so~~ appointed **under subsection (a):** ~~shall:~~

(1) must possess the qualifications required for jury commissioners;

~~and shall~~ **(2) must** be an adherent of the same political party as is the commissioner in whose stead ~~he~~ **the person** is appointed to serve;

~~and he~~ **(3)** shall take the oath required by this chapter.

(c) For the time actually employed in the performance of ~~his~~ **jury commissioner's** duties, each jury commissioner shall be allowed a per diem to be fixed by the court and ~~upon such allowance the county~~

~~auditor shall draw his warrant, and the same be~~ paid out of the county treasury **upon the warrant of the county auditor.**

SECTION 227. IC 33-4-5-7, AS AMENDED BY P.L.195-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5-7] Sec. 8. (a) A person shall be excused from acting as a juror if the person:

(1) is ~~over~~ **at least** sixty-five (65) years of age;[QUERY: OK? "OVER IS AMBIGUOUS.]

(2) is a member in active service of the armed forces of the United States;

(3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:

(A) the United States;

(B) Indiana; or

(C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

(4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

(11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A);

and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming

this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (c), (d), and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for an offense; or

(2) after the person has had the person's rights restored following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting

class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (d) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 228. IC 33-4-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5-9] Sec. 9. (a) During the month of December, and at ~~such~~ other times ~~as~~ the judge deems necessary, the judge of any court of record in which jury trials are had shall by written order direct the clerk of the circuit court to draw grand jurors or petit jurors from the names selected by the jury commissioners. ~~which~~ **The** names shall be drawn by the clerk in the presence of the jury commissioners, in a number equal to the number of jurors to be summoned according to the judge's orders. The names of jurors for each court having criminal jurisdiction shall be drawn first.

(b) At the time of the drawing, the clerk shall enter in the order book of the court a list of the names drawn, in the order in which they were drawn. ~~He~~ **The clerk** shall attach ~~his~~ **the clerk's** certificate to attest to the accuracy of the list. The clerk shall issue venires for ~~such~~ **the** jurors as the courts direct. However, the jurors called to service shall be identified long enough before the trial or grand jury session to permit counsel to study their backgrounds.

(c) Notice to or summons of persons for jury duty shall be served by the clerk of the circuit court upon order of the court.

(d) The sheriff or bailiff shall call the jurors to the jury box in the same order in which their names were drawn. Jurors shall serve for three (3) months, or for a shorter period if a shorter period is specified

in the judge's written order.

(e) ~~The provisions of~~ This section shall be construed to supplement IC 34-36-2, and IC 34-36-3-5 through IC 34-36-3-7, and other statutory provisions for special juries, for juries by agreement, for juries from other counties, for struck juries, and for special venires. This section shall be construed liberally, to the effect that no indictment shall be quashed, and no trial, judgment, order, or proceeding shall be reversed or held invalid on the ground that the terms of this section have not been followed, unless it appears that the noncompliance was either in bad faith or was objected to promptly upon discovery and was probably harmful to the substantial rights of the objecting party.

Chapter 5. Circuit and Superior Court Jury Selection and Service

SECTION 229. IC 33-4-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-1] Sec. 1. As used in this chapter, "courts" means the circuit and superior courts of a county that ~~chooses~~ **choose** to follow the procedure for jury selection and service set out in this chapter.

SECTION 230. IC 33-4-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-2] Sec. 2. As used in this chapter, "juror qualification form" means the form prescribed for use by the courts and mailed to each prospective juror, or an electronic data processing facsimile of ~~that~~ **the** form ~~such as might~~ **that may** be created on magnetic tape, punched cards, or computer discs.

SECTION 231. IC 33-4-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-3] Sec. 3. As used in this chapter, "jury commissioner" means the court administrator or the clerk of the court and includes a deputy court administrator designated by the jury commissioner ~~from time to time~~ **periodically** to act in the jury commissioner's place.

SECTION 232. [33-4-11-4] IC 33-4-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. As used in this chapter, "jury wheel" means any list, physical device, or electronic system for the storage of the names or identifying numbers of prospective jurors.

SECTION 233. IC 33-4-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-5] Sec. 5. As used in this chapter, "master list" means:

(1) a serially printed list;
(2) a magnetic tape;
(3) an addressograph file;
(4) a punched card file;
(5) a computer record; or
(6) another form of record determined by the supervising judge to be consistent with this chapter;

that fosters the policy and protects the rights secured by this chapter,

~~and that~~ contains all current, up-to-date voter registration lists for each precinct in the county, and ~~that~~ is supplemented by names derived from other sources identified under this chapter.

SECTION 234. IC 33-4-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-6] Sec. 6. As used in this chapter, "qualified jury wheel" means the jury wheel in which there are placed the names or identifying numbers of prospective jurors drawn at random from the master list and who are not disqualified.

SECTION 235. IC 33-4-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-7] Sec. 7. As used in this chapter, "supervising judge" means a judge of the courts who is designated by the judges of the courts to supervise the jury selection process.

SECTION 236. IC 33-4-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-8] Sec. 8. As used in this chapter, "voter registration lists" means the official records of persons registered to vote.

SECTION 237. IC 33-4-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-9] Sec. 9. The jury commissioner and supervising judge under the plan required by section 13 of this chapter shall provide a uniform system of jury selection for the courts ensuring that:

(1) persons selected for jury service are selected at random from a fair cross section of the population of the area served by the courts; and

(2) qualified citizens have the opportunity under this chapter to:

(A) be considered for jury service in the county; and

(B) fulfill their obligation to serve as jurors when summoned for that purpose.

SECTION 238. IC 33-4-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-10] Sec. 10. (a) The supervising judge is responsible for the selection of jurors as prescribed by this section.

(b) The supervising judge may authorize use of a computerized jury selection system under this chapter.

~~However,~~ **(c)** A system authorized under ~~this~~ subsection **(b)** must be fair and may not violate the rights of persons with respect to impartial and random selection of prospective jurors. Jurors selected under a computerized selection system must be eligible for selection under this chapter.

SECTION 239. IC 33-4-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-11] Sec. 11. (a) The court administrator shall serve as the jury commissioner for the county, and has the powers and shall perform the duties prescribed in this chapter for the jury commissioner, under the direction of the

supervising judge.

(b) **When acting as jury commissioner,** the court administrator ~~when acting as jury commissioner,~~ may not receive any compensation in addition to the court administrator's regular salary.

(c) ~~Certain duties of the jury commissioner may be delegated by~~ The court administrator ~~to a deputy court administrator~~ **may delegate certain duties of the jury commissioner to a deputy court administrator** with the approval of the supervising judge.

SECTION 240. IC 33-4-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-12] Sec. 12. (a) **Under the supervision of the supervising judge,** the jury commissioner ~~under the supervision of the supervising judge,~~ shall prepare a written plan for the selection of grand and petit jurors in the county. The plan must be designed to achieve the objectives of, and otherwise comply with, this chapter. The plan must specify the **following:**

(1) Source of names for the master list.

(2) Form of the master list.

(3) Method of selecting names from the master list.

(4) Forms of and method for maintaining records of names drawn, jurors qualified, and juror's excuses and reasons to be excused.

(5) Method of drawing names of qualified jurors for prospective service.

(6) Procedures to be followed by prospective jurors in requesting to be excused from jury service. ~~and~~

(7) Number of petit jurors that constitutes a panel for civil and criminal cases or a description of the uniform manner in which this determination is made.

(b) The plan must be placed into operation after approval by the judges of the courts. The judges of the courts shall examine the plan to determine whether it complies with this chapter. If the plan is found not to comply, the court shall order the jury commissioner to make the necessary changes to bring the plan into compliance.

(c) The plan may be modified at any time according to the procedure specified under this chapter.

(d) The plan must be submitted by the jury commissioner to the judges of the courts. The judges of the courts shall approve or direct modification of the plan not later than sixty (60) days after its receipt. The approved plan must go into effect not later than sixty (60) days after approval by the judges of the courts.

(e) The plan is a public document on file in the office of the jury commissioner and must be available for inspection at all reasonable times.

SECTION 241. IC 33-4-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-13] Sec. 13. (a)

The jury commissioner shall compile and maintain a master list consisting of all the voter registration lists for the county, supplemented with names from other lists of persons resident in the county that the ~~Indiana~~ supreme court shall ~~from time to time~~ **periodically** designate as necessary to obtain the broadest cross section of the county, having determined that use of supplemental lists is feasible. The Indiana supreme court may designate supplemental lists for use by the courts ~~from time to time~~ **periodically** in a manner that fosters the policy and protects the rights secured by this chapter. Supplemental sources may consist of lists of:

(1) utility customers;

(2) property taxpayers; **and**

(3) persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses.

Supplemental lists may not be substituted for the voter registration list. In drawing names from supplemental lists, the jury commissioner shall avoid duplication of names.

(b) ~~Whoever~~ **A person who** has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection (a) by the Indiana supreme court as supplementary sources of names, shall furnish the master list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the courts.

(d) The master list of names is open to the public for examination as a public record. However, the source of names and any information other than the names contained in the source is confidential.

SECTION 242. IC 33-4-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-14] Sec. 14. (a) Names must be drawn for juror service quarterly, based on a calendar year commencing in January. A public drawing of names for the next quarter must be held during the first week of the second month of the quarter next preceding that for which names are being drawn, at a time and place prescribed by the jury commissioner.

(b) The jury commissioner shall create and file an alphabetical list of names drawn under this section. The alphabetical list may be in the form of a serial listing or discreet records (such as punched cards, addressograph plates, or computer records) filed together to constitute the alphabetical list. Names may not be added to the alphabetical list, except by order of the court. ~~Neither the~~ **The** names drawn ~~nor~~ **or** any list compiled from the alphabetical list may **not** be disclosed to any person other than under this chapter or by order of the supervising judge.

(c) The number of names required to be drawn each quarter must be

determined by the jury commissioner after consultation with all judges of the courts who may conduct jury trials during the quarter, taking into consideration the number of jurors required for the grand jury.

(d) The frequency of the drawing of names may be increased by the jury commissioner if the jury commissioner determines it necessary for purposes of fairness, efficiency, or to ensure compliance with this chapter.

(e) Names must be drawn randomly under section 16 of this chapter.

(f) Names drawn from the master list may not be returned to the master list until all nonexempt persons on the master list have been called.

SECTION 243. IC 33-4-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-15] Sec. 15. Assuming the master list contains names in some sequential order, such as an alphabetical or a numeric sequence, the drawing of names from the master list must be performed in the following manner:

(1) The total number of names on the master list is divided by the number of names to be drawn. The next whole number greater than the resulting quotient is the key number, except that the key number is never less than two (2).

(2) A starting name for making the selection is determined by randomly choosing a number between one (1) and the key number, inclusive.

(3) The required number of names is selected beginning with the starting name selected under subdivision (2) and proceeding to successive names appearing in the master list at intervals equal to the key number, recommencing at the beginning of the list until the required number of names is selected.

(4) Upon recommencing at the beginning of the list, or if additional names are subsequently ordered to be drawn from the master list, names previously selected in the process described in subdivision (3) must be disregarded in selecting the additional names.

(5) An electronic or a mechanical system may be used to draw names from the master list.

SECTION 244. IC 33-4-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-16] Sec. 16. (a) Not later than seven (7) days after the date of the drawing of names from the master list, the jury commissioner shall mail to each person whose name is drawn a juror qualification form. The form must be accompanied by instructions to fill out and return the form by mail to the jury commissioner not later than ten (10) days after its receipt. The instructions must state that requests for excuse from jury service during the next jury term should accompany the return of the qualification form.

(b) The juror qualification form must be designed by the jury commissioner and subject to approval by the judges of the courts as to matters of content and must elicit:

(1) the prospective juror's name, address of residence, and age; and

(2) whether the prospective juror:

(A) is a citizen of the United States and a resident of the county;

(B) is able to read, speak, and understand the English language;

(C) has any physical or mental disability impairing the person's capacity to render satisfactory jury service; or

(D) has had rights revoked by reason of a felony conviction and not restored.

The juror qualification form must contain the prospective juror's declaration that the responses are true to the best of the prospective juror's knowledge. Notarization of the juror qualification form is not required.

(c) If a prospective juror is unable to fill out the form, another person may fill out the form for the prospective juror. If the form is completed by a person other than a prospective juror, the form must indicate that another person has done so and the reason for doing so.

(d) If it appears there is an omission, ambiguity, or error in a returned form, the jury commissioner shall resend the form, instructing the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commissioner not later than ten (10) days after its second receipt.

(e) A prospective juror who fails to return a completed juror qualification form as instructed must be directed by the jury commissioner to immediately appear before the jury commissioner to fill out a juror qualification form.

(f) When a prospective juror appears for jury service, or when there is an official conversation with the supervising judge or jury commissioner, a prospective juror may be required to fill out another juror qualification form in the presence of the supervising judge or jury commissioner. At this time, the prospective juror may be questioned, but only with regard to responses to questions contained on the form and grounds for the prospective juror's excuse or disqualification. Information acquired under this subsection by the supervising judge or jury commissioner must be noted on the juror qualification form.

SECTION 245. IC 33-4-11-17, AS AMENDED BY P.L.1-1999, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-17] Sec. 17. (a) A prospective juror who fails to appear as directed by the jury commissioner under section 16 of this chapter must be ordered by the supervising judge to appear and show

cause for the failure to appear as directed. If the prospective juror fails to appear under the supervising judge's order or fails to show good cause for the failure to appear as directed by the jury commissioner, the prospective juror is guilty of criminal contempt.

(b) A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

SECTION 246. IC 33-4-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-18] Sec. 18. (a) The supervising judge or the jury commissioner shall determine solely on the basis of information provided on a juror qualification form or interview with a prospective juror whether the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A person may not be automatically excused under this chapter. **Upon request of a prospective juror,** the supervising judge or jury commissioner ~~upon request of a prospective juror,~~ shall determine on the basis of information provided on:

(1) the juror qualification form;

(2) correspondence from the prospective juror; or

(3) an interview with the prospective juror;

whether the prospective juror may be excused from jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form.

(c) A person who is not disqualified for jury service may be excused from jury service only upon a showing of:

(1) undue hardship;

(2) extreme inconvenience; or

(3) public necessity;

until the time of the next drawing when the person is resummoned. Appropriate records must be maintained by the jury commissioner to facilitate resummoning.

(d) Requests for excuse, other than those accompanying the return of the qualification form, must be made by the prospective juror in writing to the jury commissioner not later than three (3) days before the date when the prospective juror has been summoned to appear.

SECTION 247. IC 33-4-11-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-19] Sec. 19. (a) The jury commissioner shall maintain a qualified jury wheel and shall place in the jury wheel the names or identifying numbers of all prospective jurors drawn from the master list who are not disqualified or excused.

(b) The judges of the courts shall, by local court rule, specify the

procedure **to be used for:**

(1) the selection of qualified prospective jurors under this section; and

(2) summoning qualified prospective jurors whose names are drawn from the qualified jury wheel.

(c) Upon receipt of an order for a grand jury, the jury commissioner shall publicly, and in accordance with section 20 of this chapter, draw at random from the qualified jury wheel twelve (12) qualified jurors and direct them to appear before the supervising judge. The supervising judge shall randomly select six (6) jurors after:

(1) explaining to the twelve (12) prospective jurors the duties and responsibilities of a grand jury; and

(2) excusing jurors under section 18 of this chapter.

(d) Whenever there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the supervising judge may require the jury commissioner to draw additional jurors at random from the qualified jury wheel. Talesmen may not be solicited from among bystanders or from any source except from among names drawn from the qualified jury wheel.

(e) The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors may not be made available to the public until the period of service of those jurors has expired. However, attorneys in any cases in which these jurors may serve may have access to the information.

SECTION 248. IC 33-4-11-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-20] Sec. 20. The same method described in section 15 of this chapter for drawing names from the master list must be followed for drawing names from the qualified jury wheel unless the names in the qualified jury wheel are not in some sequential order as described in section 15 of this chapter. ~~If~~ **The key number system is not necessary if** the names are in the form of ballots or in some other form requiring them to be blindly drawn from a container by hand. ~~the key number system is not necessary.~~

SECTION 249. IC 33-4-11-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-21] Sec. 21. (a) Not later than seven (7) days after a moving party discovers or by the exercise of diligence could have discovered grounds, but before a petit jury is sworn to try a case, a party may:

(1) in a civil case move to stay the proceedings; and

(2) in a criminal case move:

(A) to dismiss the indictment (if the case has been brought by indictment);

(B) to stay the proceedings; or

(C) for other appropriate relief;

on the ground of substantial failure to comply with this chapter in selecting the prospective grand or petit jurors.

(b) Upon a motion filed under subsection (a) containing a sworn statement of facts that, if true, would constitute a substantial failure to comply with this chapter, the moving party may present in support of the motion:

(1) the testimony of the jury commissioner;

(2) relevant records and papers not public or otherwise available used by the jury commissioner; and

(3) other relevant evidence.

(c) If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court:

(1) shall stay the proceedings pending the selection of the jury in conformity with this chapter; and

(2) may dismiss an indictment (if the case was brought by indictment) or grant other appropriate relief.

~~(c)~~ **(d)** The procedures required by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

~~(d)~~ **(e)** The parties to the case may inspect, reproduce, and copy the records or papers of the jury commissioner at all reasonable times during the preparation and pendency of a motion under subsection (a).

SECTION 250. IC 33-4-11-22, AS AMENDED BY P.L.1-1999, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-22] Sec. 22. After the period of service for which names were drawn from the master jury list has expired, and all persons selected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury commissioner or the clerk must be preserved by the clerk of the courts for the period prescribed by rule of the Indiana supreme court. The records and papers must be available for public inspection at all reasonable times.

SECTION 251. IC 33-4-11-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-23] Sec. 23. (a) A person who appears for service as a petit or grand juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service but is not selected and sworn as a juror completes the person's service at the end of one (1) day.

(b) A person who:

(1) serves as a juror under this chapter; or

(2) completes one (1) day of jury selection but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons

on the master list have been called for jury duty.

SECTION 252. IC 33-4-11-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-24] Sec. 24. A person summoned for jury service who fails to appear or complete jury service as directed must be ordered by the court to immediately appear and show cause for the person's failure to comply with the summons. If the person fails to show good cause for noncompliance with the summons, the person is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars ($100) or imprisoned in the county jail for not more than three (3) days, or both.

SECTION 253. IC 33-4-11-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-11-25] Sec. 25. The ~~Indiana~~ supreme court may adopt rules, not inconsistent with this chapter, regulating the selection and service of jurors.

Chapter 6. Lake County Jury Selection and Service Provisions

SECTION 254. IC 33-4-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-1] Sec. 1. It is the policy of this chapter to provide a uniform system of jury selection for all courts so that:

(1) all persons selected for jury service shall be selected at random from a fair cross section of the population of the area served by the court; and

(2) ~~that~~ all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service in this county and an obligation to serve as jurors when summoned for that purpose.

SECTION 255. IC 33-4-5.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-4(a)] Sec. 2. **(a)** As used in this chapter, ~~(a)~~ "court" means the superior court of a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). ~~and also~~

(b) The term includes all other courts in ~~such~~ **the** counties.

[33-4-5.5-4(g)] Sec. 3. ~~(g)~~ **As used in this chapter,** "juror qualification form" means the form prescribed for use by the court and mailed to each prospective juror, or an electronic data processing facsimile of that form ~~such as~~ **that** might be created on magnetic tape, punched cards, or computer discs.

[33-4-5.5-4(b)] Sec. 4. ~~(b)~~ **As used in this chapter,** "jury commissioner" ~~may include~~ **includes** any deputy court administrator designated by the jury commissioner from time to time to act in ~~his~~ **the jury commissioner's** place.

[33-4-5.5-4(e)] Sec. 5. ~~(c)~~ **As used in this chapter,** "jury wheel" means any list, physical device, or electronic system for the storage of the names or identifying numbers of prospective jurors.

[33-4-5.5-4(c)] Sec. 6. ~~(c)~~ **As used in this chapter,** "master list"

means all current, up-to-date voter registration lists for each precinct in the county ~~which shall be~~ supplemented with names from other sources prescribed pursuant to ~~other sections of~~ this chapter, in order to foster the policy and protect the rights secured by this chapter. The **master** list may be in the form of a serially printed list, a magnetic tape, an addressograph file, punched cards, or such other form deemed by the chief judge to be consistent with ~~the provisions of~~ this chapter.

[33-4-5.5-4(f)] Sec. 7. ~~(f)~~ **As used in this chapter,** "qualified jury wheel" means the jury wheel in which there are placed the names or identifying numbers of prospective jurors drawn at random from the master list and who are not disqualified.

[33-4-5.5-4(d)] Sec. 8. ~~(d)~~ **As used in this chapter,** "voter registration lists" means the official records of persons registered to vote in the most recent general election.

SECTION 256. IC 33-4-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-2] Sec. 9. A citizen ~~shall~~ **may** not be excluded from jury service in counties affected by this chapter on account of race, color, religion, sex, national origin, or economic status.

SECTION 257. IC 33-4-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-3] Sec. 10. (a) The chief judge of the superior court within counties affected by this chapter shall be responsible for the selection of jurors as prescribed by this section.

(b) The chief judge of the superior court may authorize the ~~utilization~~ **use** of a computerized jury selection system under this chapter. However, the system ~~utilized~~ **used** for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized selection system must be eligible for selection under this chapter.

SECTION 258. IC 33-4-5.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-5] Sec. 11. (a) The court administrator of the court shall also serve as the jury commissioner for the county, and ~~shall have~~ **has** the powers and **shall** perform the duties prescribed in this chapter for jury commissioners, under the direction of the chief judge.

(b) The court administrator in ~~his~~ **the court administrator's** role as jury commissioner, shall not receive any compensation in addition to ~~his~~ **the court administrator's** regular salary.

(c) Performance of certain duties of the jury commissioner may be delegated to a deputy court administrator with the express approval of the chief judge.

(d) The jury commissioner may choose to follow the procedure for jury selection and service set out in ~~IC 33-4-11~~ **????** instead of the

procedure set out in this chapter. If the decision to follow ~~IC 33-4-11~~ **????** is made, all ~~of~~ the provisions of ~~IC 33-4-11~~ **????** must be followed.

SECTION 259. IC 33-4-5.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-6] Sec. 12. (a) The jury commissioner, under the supervision of the chief judge, shall prepare a written plan for the selection of grand and petit jurors in this county designed to achieve the objectives of, and otherwise comply with the provisions of, this chapter. This plan ~~shall~~ **must** specify **the following:**

(1) The source of names for the master list.

(2) The form of the list.

(3) The method of selecting names from the list.

(4) The forms of and method for maintaining records of names drawn, jurors qualified, and juror's excuses and reasons therefore.

(5) The method of drawing names of qualified jurors for prospective service.

~~and~~ **(6)** The procedures to be followed by prospective jurors in requesting excuse from jury service.

The plan ~~shall~~ **must** either specify the number of petit jurors ~~which shall~~ **that** constitute a panel for civil and criminal cases or describe the uniform manner in which this determination shall be made.

(b) The plan shall be placed into operation after approval by the court. The judges of the court shall examine the plan to ascertain that it complies with the intent and provisions of this chapter. If the plan is found not to comply, the court shall order the jury commissioner to make the necessary ~~change(s).~~ **changes.**

(c) The plan may be modified at any time ~~pursuant to~~ **under** the procedure specified under this chapter.

(d) The plan shall be submitted by the jury commissioner to the court. The court shall approve or direct modification of the plan within sixty (60) days ~~of~~ **after** its receipt. The approved plan shall go into effect ~~no~~ **not** more than sixty (60) days after approval by the court.

(e) The plan ~~shall be~~ **is** a public document on file in the office of the jury commissioner and available for inspection at all reasonable times.

SECTION 260. IC 33-4-5.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-7] Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of all the voter registration lists for the county, supplemented with names from other lists of persons resident in the county which the Indiana supreme court shall ~~from time to time~~ **periodically** designate as necessary to obtain the broadest cross-section of the county, having determined that use of ~~such~~ **the** supplemental lists is feasible. The supreme court shall exercise the authority ~~so~~ to designate

supplemental lists ~~from time to time~~ **periodically** in ~~such manner as~~ **order** to foster the policy and protect the rights secured by this article. ~~These~~ **The** supplemental sources may ~~consist of such lists as those~~ **include lists** of utility customers, property taxpayers, persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. ~~Such~~ **Supplemental** lists may not be substituted for the voter registration list. In drawing names from ~~such~~ supplemental lists, the jury commissioner shall avoid duplication of names.

~~(b)(1)~~ **(b)** Whoever has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection (a) ~~of this section~~ by the supreme court as supplementary sources of names, shall furnish the list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

~~(2)~~ **(c)** When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the court.

~~(3)~~ **(d)** The master list of names shall be open to the public for examination as a public record, except that the source of names and any information other than ~~name~~ **the names** contained in that source shall not be public information.

SECTION 261. IC 33-4-5.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-8] Sec. 14. (a) Names shall be drawn for juror service quarterly, based on a calendar year commencing in January. A public drawing shall be held of names for the next quarter during the first week of the second month of the quarter next preceding that for which names are being drawn, at a time and place prescribed by the jury commissioner.

(b) An alphabetic list of names so drawn shall be created and filed in the office of the jury commissioner. ~~Such~~ **The** list may be in the form of a serial listing or discreet records (such as punched cards or addressograph plates) filed together to constitute said list. ~~No~~ Names may **not** be added to this list, except by order of the court. ~~Neither~~ The names drawn ~~nor~~ **or** any list compiled ~~therefrom, shall~~ **from the names drawn may not** be disclosed to any person other than ~~pursuant to~~ **under** this chapter or specific order of the chief judge.

(c) The number of names required to be drawn each quarter shall be determined by the jury commissioner after consultation with all judges who may conduct jury trials during the quarter, taking into consideration the number of jurors required for the grand jury.

(d) The frequency of drawing of names may be increased by the jury commissioner without amendment to this chapter when ~~he~~ **the jury commissioner** ~~deems~~ **considers** it necessary for purposes of fairness **or** efficiency or to ensure compliance with ~~sections of~~ this chapter.

(e) Names shall be drawn randomly in the manner prescribed in section ~~9~~ **15** of this chapter.

(f) Names ~~so~~ drawn from the master list ~~shall~~ **may** not be returned to the list until one (1) year after the date of the drawing of the name.

SECTION 262. IC 33-4-5.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-9] Sec. 15. ~~Assuming~~ **(a) If** the master list contains names in some sequential order, such as alphabetic or numeric sequence, the drawing of names from the master list shall be performed in the following manner:

~~(a)~~ **STEP ONE:** The total number of names on the master list shall be divided by the number of names desired to be drawn. The whole number next greater than the resulting quotient shall be the "key number" except that the key number ~~shall never~~ **may not** be less than two (2).

~~(b)~~ **STEP TWO:** A "starting name" for making the selection shall then be determined by randomly choosing a number between one (1) and the "key number", inclusive.

~~(c)~~ **STEP THREE:** The required number of names shall then be selected beginning with the "starting name" selected ~~as described above~~ **under STEP TWO** and proceeding to successive names appearing in the master list at intervals equal to the "key number", recommencing at the beginning of the list until the required number of names has been selected.

~~(d)~~ **(b)** Upon recommencing at the beginning of the list, or if additional names are subsequently ordered to be drawn from the master list, names previously selected in the process described in ~~(c) above~~ **subsection (a) STEP THREE** shall be disregarded in selecting the additional name.

~~(e)~~ **(c)** An electronic or mechanical system may be used to draw names from the master list.

SECTION 263. IC 33-4-5.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-10] Sec. 16. ~~(a)(1) Within~~ **(a) Not more than** one (1) calendar week after the date of the drawing of names from the master list, the jury commissioner shall cause to be mailed to each person whose name is drawn, a juror qualification form. The form shall be accompanied by instructions to fill out and return the form by mail to the jury commissioner within ten (10) days after its receipt. The instructions shall further state that requests for excuse from jury service during the next jury term should accompany return of the qualification form.

~~(2)~~ **(b)** The juror qualification form:

(1) shall be designed by the jury commissioner ~~and~~ subject to approval by the court as to matters of content; and ~~shall~~

(2) must elicit the name, address of residence, and age of the

prospective juror and whether ~~he~~ **the prospective juror:**

(A) is a citizen of the United States and a resident of the county;

(B) is able to read, speak, and understand the English language;

(C) has any physical or mental disability impairing ~~his~~ **the prospective juror's** capacity to render satisfactory jury service; or

(D) has had rights revoked by reason of a felony conviction and not restored.

The juror qualification form ~~shall~~ **must** contain the prospective juror's declaration that ~~his~~ **the prospective juror's** responses are true to the best of ~~his~~ **prospective juror's** knowledge. Notarization of the juror qualification form ~~shall not be~~ **is not** required.

~~(3)~~ **(c)** If the prospective juror is unable to fill out the form, another person may do it for ~~him and~~ **the prospective juror. A person filling out the form for a prospective juror** shall indicate that ~~he~~ **the person** has done so and the reason ~~therefor.~~ **that the prospective juror was unable to fill out the form.**

~~(4)~~ **(d)** If it appears there is an omission, ambiguity, or error in a returned form, the jury commissioner shall again send the form, instructing the prospective juror to:

(1) make the necessary addition, clarification, or correction; and ~~to~~

(2) return the form to the jury commissioner within ten (10) days after its second receipt.

~~(5) Any~~ **(e) A** prospective juror who fails to return a completed juror qualification form as instructed shall be directed by the jury commissioner to appear ~~forthwith~~ before the jury commissioner to fill out a juror qualification form.

~~(6)~~ **(f)** At the time of ~~his~~ **a prospective juror's** appearance for jury service, or at the time of any official conversation with the court or jury commissioner, any prospective juror may be required to fill out another juror qualification form in the presence of the court or jury commissioner. At this time the prospective juror may be questioned, but only with regard to ~~his~~ **the prospective juror's** responses to questions contained on the form and grounds for ~~his~~ **the prospective juror's** excuse or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.

~~(b)~~ **(g)** A prospective juror who fails to appear as directed by the jury commissioner ~~pursuant to subsection (a) of~~ **under** this section shall be ordered by the court to appear and show cause for ~~his~~ **the prospective juror's** failure to appear as directed. If the prospective juror fails to appear ~~pursuant to~~ **under** the court's order or fails to show

good cause for ~~his~~ **the prospective juror's** failure to appear as directed by the jury commissioner, ~~he~~ **the prospective juror** is guilty of criminal contempt.

~~(c)~~ **(h)** A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

SECTION 264. IC 33-4-5.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-11] Sec. 17. (a) The court or the jury commissioner shall determine solely on the basis of information provided on the juror qualification form or interview with the prospective juror whether or not the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A prospective juror is disqualified to serve on a jury if ~~he:~~ **the prospective juror:**

(1) is not a citizen of the United States, **at least** eighteen (18) years ~~old,~~ **of age,** and a resident of the county; ~~or~~

(2) is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form; ~~or~~

(3) is incapable, by reasons of ~~his~~ **a** physical or mental disability, of rendering satisfactory jury service; **or**

~~However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate as to the disability, and the certifying physician or practitioner is subject to inquiry by the court at its discretion; or~~

(4) has had ~~his~~ **the prospective juror's** rights revoked by reason of a felony conviction and not restored.

(c) A person claiming a disqualification under subsection (b)(3) may be required to submit a physician's or an authorized Christian Science practitioner's certificate as to the disability. The certifying physician or practitioner is subject to inquiry by the court at its discretion.

SECTION 265. IC 33-4-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-12] Sec. 18. (a) The jury commissioner shall maintain a qualified jury wheel and shall place in the jury wheel the names or identifying numbers of all prospective jurors drawn from the master list who are not disqualified or excused.

(b) A judge of any court or any other state or county official having the authority to conduct a trial or hearing with a jury within the county by order may direct the jury commissioner to draw and assign to that court or official the number of qualified jurors necessary for one (1) or

more petit jury panels. Upon receipt of the order and in a manner prescribed in section ~~14~~ **20** of this chapter, the jury commissioner shall publicly draw at random from the qualified jury wheel the number of qualified jurors required by the order and assign ~~said~~ **the** qualified jurors so drawn to the court's jury panel.

(c) Upon receipt of an order for a grand jury, the jury commissioner shall publicly and in a manner prescribed in section ~~14~~ **20** of this chapter, draw at random from the qualified jury wheel twelve (12) qualified jurors who shall be directed to appear before the chief judge. The chief judge shall randomly select six (6) jurors and one (1) alternate juror after having explained to the twelve (12) prospective jurors the duties and responsibilities of a grand jury and having excused jurors as prescribed in section ~~15~~ **21** of this chapter.

(d) An alphabetic listing of grand and petit jurors assigned to each court location shall be maintained by the jury commissioner and a copy transmitted to the judge for whom the names have been drawn.

(e) If a grand, petit, or other jury is ordered to be drawn, the clerk ~~thereafter~~ shall cause each person drawn for jury service to be served with a summons either personally or by registered or certified mail, return receipt requested, addressed to ~~him~~ **the person** at ~~his~~ **the person's** usual residence, business, or post office address, requiring ~~him~~ **the person** to report for jury service at a specified time and place.

(f) ~~Whenever~~ **If** there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the court may require the jury commissioner to:

(1) draw additional jurors at random from the qualified jury wheel; or

(2) send available jurors from another panel to the court location requiring additional jurors.

~~In no instance may~~ Talesmen **may not** be solicited from among bystanders or from any source except from among names drawn from the qualified jury wheel.

(g) The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors ~~shall~~ **may** not be made available to the public until the period of service of those jurors ~~shall have~~ **has** expired, except that attorneys in any cases in which these jurors may serve, shall have access to the information.

SECTION 266. IC 33-4-5.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-13] Sec. 19. A qualified prospective juror is not exempt from jury service except for the following:

(1) Members in active service of the Armed Forces of the United States who are actively engaged in the performance of their official duties.

(2) Elected or appointed officials of the executive, legislative, or judicial branches of government of the:

(A) United States;

(B) state of Indiana; or

(C) counties affected by this chapter;

who are actively engaged in the performance of their official duties.

(3) A person who:

(A) would serve as a juror during a criminal trial; and

(B) is:

(i) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(ii) the spouse or child of a person described in item (i);

and desires to be excused for that reason.

SECTION 267. IC 33-4-5.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-4-5.5-14] Sec. 20. The same method described in section ~~9~~ **15** of this chapter for drawing names from the master list shall be followed for drawing names from the qualified wheel unless the names in the qualified wheel are not in some sequential order as described in section ~~9~~ **15** of this chapter. ~~Should~~ **If** the names ~~be~~ **are** in the form of ballots or in some other form ~~wherein~~ **in which** they must be blindly drawn from a container by hand, the key number system ~~shall not be~~ **is not** necessary.

SECTION 268. IC 33-4-5.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-15] Sec. 21. (a) Except as provided in section ~~13~~ **19** of this chapter, a person may not be automatically excused under this chapter. The chief judge or jury commissioner, upon request of a prospective juror, shall determine on the basis of information provided on the juror qualification form, correspondence from the prospective juror, or interview with the prospective juror whether the prospective juror should be excused from jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form.

(b) A person who is not disqualified for jury service may be excused from jury service only upon a showing of undue hardship, extreme inconvenience, or public necessity, until the time of the next drawing at which time ~~he~~ **the person** will be resummoned. Appropriate records shall be maintained by the jury commissioner to facilitate ~~said~~ **a** resummoning.

(c) Requests for excuse, other than those accompanying return of the qualification form, shall be made by the prospective juror in writing to the Presiding Judge ~~no~~ **not** later than three (3) weeks ~~in advance of~~ **before** the date upon which ~~he~~ **the prospective juror** has been summoned to appear.

SECTION 269. IC 33-4-5.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-16] Sec. 22. (a) ~~Within~~ **Not more than** seven (7) days after the moving party discovered or by the exercise of diligence could have discovered the grounds ~~therefore,~~ and ~~in any event~~ before the petit jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case, to dismiss the indictment (if the case has been brought by indictment) or stay the proceedings or for other appropriate relief, on the ground of substantial failure to comply with this chapter in selecting the prospective grand or petit jurors.

(b) Upon motion filed under subsection (a) ~~of this section~~ containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this chapter, the moving party is entitled to present in support of the motion the testimony of the jury commissioner, any relevant records and papers not public or otherwise available used by the jury commissioner and any other relevant evidence. If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court shall stay the proceedings pending the selection of the jury in conformity with this article, and may dismiss an indictment (if the instant case was brought by indictment) or grant other appropriate relief.

(c) The procedures prescribed by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(d) The parties to the case may inspect, reproduce, and copy the records or papers of the jury commissioner at all reasonable times during the preparation and pendency of a motion under subsection (a). ~~of this section.~~

SECTION 270. IC 33-4-5.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-17] Sec. 23. After the period of service for which names were drawn from the master jury list has expired, and all persons elected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury commissioner or the clerk shall be preserved by the clerk for ~~such~~ **a** period as ~~shall be~~ prescribed by rule of the supreme court and ~~shall~~ **must** be available for public inspection at all reasonable times.

SECTION 271. IC 33-4-5.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-4-5.5-19] Sec. 24. In any one (1) year period, a person ~~shall~~ **may** not be eligible or required to be available for service as a petit or grand juror for more than one (1) term of service, except when necessary to complete service in a particular case. The term of service shall be three (3) months unless a shorter jury term is ordered by the chief judge due to a sustained

increase in frequency or length of jury trials ~~which~~ **that** would result in a requirement for jurors to be present at court more than ten (10) court days during the quarter, except as necessary to complete service in a particular case.

SECTION 272. IC 33-4-5.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-20] Sec. 25. A person summoned for jury service who fails to appear or to complete jury service as directed shall be ordered by the court to appear ~~forthwith~~ and show cause for ~~his~~ **the person's** failure to comply with the summons. If ~~he~~ **the person** fails to show good cause for noncompliance with the summons, ~~he~~ **the person** is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars ($100) or imprisoned in the county jail not more than three (3) days, or both.

SECTION 273. IC 33-4-5.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-5.5-22] Sec. 26. The supreme court may make and amend rules, not inconsistent with this chapter, regulating the selection and service of jurors.

Chapter 7. Magistrates

SECTION 274. IC 33-4-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-1] Sec. 1. This chapter applies to a court expressly authorized by statute to appoint a full-time magistrate.

SECTION 275. IC 33-4-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-4-7-2] Sec. 2. A magistrate must be admitted to the practice of law in Indiana.

SECTION 276. IC 33-4-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-3] Sec. 3. A magistrate may not engage in the practice of law while holding the office of magistrate.

SECTION 277. IC 33-4-7-3.5, AS ADDED BY P.L.196-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-3.5] Sec. 4. The files of applicants for appointment as a magistrate, including the names of applicants, are confidential as provided in IC 5-14-3-4(b)(8).

SECTION 278. IC 33-4-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-4] Sec. 5. A magistrate may do any of the following:

(1) Administer an oath or affirmation required by law.
(2) Solemnize a marriage.
(3) Take and certify an affidavit or deposition.
(4) Order that a subpoena be issued in a matter pending before the court.
(5) Compel the attendance of a witness.
(6) Punish contempt.

(7) Issue a warrant.
(8) Set bail.
(9) Enforce court rules.
(10) Conduct a preliminary, initial, omnibus, or other pretrial hearing.
(11) Conduct an evidentiary hearing or trial.
(12) Receive a jury's verdict.
(13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.
(14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described under section ~~8~~ **[9]** of this chapter.

SECTION 279. IC 33-4-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-5] Sec. 6. A magistrate may serve as a judge pro tempore or as a special judge of the court. A magistrate is not entitled to additional compensation for service under this section.

SECTION 280. IC 33-4-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-6] Sec. 7. The court may assign a magistrate administrative duties that are consistent with this chapter.

SECTION 281. IC 33-4-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-7] Sec. 8. Except as provided under section ~~8(b)~~ **9(b)** of this chapter, a magistrate:
(1) does not have the power of judicial mandate; and
(2) may not enter a final appealable order unless sitting as a judge pro tempore or a special judge.

SECTION 282. IC 33-4-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-8] Sec. 9. (a) Except as provided under subsection (b), a magistrate shall report findings in an evidentiary hearing, a trial, or a jury's verdict to the court. The court shall enter the final order.

(b) If a magistrate presides at a criminal trial, the magistrate may do the following:
(1) Enter a final order.
(2) Conduct a sentencing hearing.
(3) Impose a sentence on a person convicted of a criminal offense.

SECTION 283. IC 33-4-7-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-9.1] Sec. 10. A magistrate is entitled to an annual salary equal to eighty percent (80%) of the salary of a judge under ~~IC 33-13-12-7.1.~~ **????.**

SECTION 284. IC 33-4-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-10] Sec. 11. Except as provided in section ~~11~~ **12** of this chapter, the state shall pay the salary of a magistrate. A county located in the circuit that the

magistrate serves may supplement the magistrate's salary.

SECTION 285. IC 33-4-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-11] Sec. 12. The salary of a magistrate appointed under IC 31-31-3-2 shall be paid in accordance with ~~IC 33-13-12-8.2.~~ **????.**

SECTION 286. IC 33-4-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-7-12] Sec. 13. A magistrate may:

(1) participate in the public employees' retirement fund as provided in IC 5-10.3; or

(2) elect to remain in the judges' retirement system under ~~IC 33-13~~ **????** if the magistrate had previously participated in the system.

Chapter 8. Circuit Court and Superior Court Domestic Relations Alternative Dispute Resolution

SECTION 287. IC 33-4-13-1, AS ADDED BY P.L.94-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-13-1] Sec. 1. (a) In addition to the fees required under ~~IC 33-19-5-4,~~ **?????,** if a county meets the requirements of this chapter, the clerk of the court shall collect from the party filing a petition for legal separation, paternity, or dissolution of marriage under IC 31 an alternative dispute resolution fee of twenty dollars ($20).

(b) Not later than thirty (30) days after the clerk collects a fee under subsection (a), the clerk shall forward to the county auditor the alternative dispute resolution fee. The county auditor shall deposit the fee forwarded by the clerk under this section into the alternative dispute resolution fund.

SECTION 288. IC 33-4-13-2, AS ADDED BY P.L.94-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-13-2] Sec. 2. (a) There is established an alternative dispute resolution fund for the circuit court and an alternative dispute resolution fund for the superior court. The exclusive source of money for each fund is the alternative dispute resolution fee collected under section 1 of this chapter for the circuit or superior court, respectively.

(b) The funds shall be used to foster domestic relations alternative dispute resolution, including:

(1) mediation;

(2) reconciliation;

(3) nonbinding arbitration; and

(4) parental counseling.

Litigants referred by the court to services covered by the fund shall make a copayment for the services in an amount determined by the court based on the litigants' ability to pay. The fund shall be administered by the circuit or superior court that exercises jurisdiction

over domestic relations and paternity cases in the county. Money in each fund at the end of a fiscal year does not revert to the county general fund but remains in the fund for the uses specified in this section.

(c) The circuit or superior court that administers the alternative dispute resolution fund shall ensure that money in the fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay, in accordance with the plan adopted by the county under section 3 of this chapter.

(d) A court may not order parties into mediation or refer parties to mediation if a party is currently charged with or has been convicted of a crime:

(1) under IC 35-42; or

(2) in another jurisdiction that is substantially similar to the elements of a crime described in IC 35-42.

SECTION 289. IC 33-4-13-3, AS ADDED BY P.L.94-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-13-3] Sec. 3. **(a)** A county desiring to participate in the program under this chapter must:

(1) develop a plan to carry out the purposes of section 2 of this chapter that have been approved by a majority of the judges in the county exercising jurisdiction over domestic relations and paternity cases; and

(2) submit the plan to the judicial conference of Indiana.

(b) The plan **under subsection (a)** must include:

(1) information concerning how the county proposes to carry out the purposes of the domestic relations alternative dispute resolution fund as set out in section 2 of this chapter; **and**

~~The plan must include~~ **(2)** a method of ensuring that the money in the alternative dispute resolution fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay.

The plan may include the use of senior judges as mediators in domestic relations cases as assigned by the supreme court. The judicial conference of Indiana may request additional information from the county as necessary.

SECTION 290. IC 33-4-13-4, AS ADDED BY P.L.94-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-13-4] Sec. 4. A county that participates in the program under this chapter shall submit a report to the judicial conference of Indiana not later than December 31 of each year, summarizing the results of the program.

SECTION 291. IC 33-29 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 29. SUPERIOR COURTS

Chapter 1. Provisions Concerning Standard Superior Courts

Sec. 1. Except as otherwise provided in IC 33-33, this chapter applies to standard superior courts established in IC 33-33.

Sec. 2. A standard superior court may have a seal containing the words "_____ (insert name of county in which the court is located) Superior Court _____ (insert court number for multiple courts), _____ (insert name of county) County, Indiana".

Sec. 3. (a) A standard superior court judge is elected at the general election every six (6) years in the county in which the court is located. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as a judge of a standard superior court, a person must be:

(1) a resident of the county in which the court is located;

(2) less than seventy (70) years of age at the time the judge takes office; and

(3) admitted to practice law in Indiana.

Sec. 4. The judge of a standard superior court:

(1) has the same powers relating to the conduct of business of the court as the judge of the circuit court of the county in which the standard superior court is located; and

(2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 5. (a) The judge of a standard superior court shall appoint a bailiff and an official court reporter for the court.

(b) The salaries of the bailiff and the official court reporter shall be:

(1) fixed in the same manner as the salaries of the bailiff and the official court reporter for the circuit court of the county in which the standard superior court is located; and

(2) paid monthly:

(A) out of the treasury of the county in which the standard superior court is located; and

(B) as provided by law.

Sec. 6. The clerk of a standard superior court, under the direction of the judge of the court, shall provide:

(1) order books and fee books;

(2) judgment dockets and execution dockets; and

(3) other books for the court;

that must be kept separately from the books and papers of other courts.

Sec. 7. (a) The county executive for the county in which the standard superior court is located shall provide and maintain:

(1) a suitable courtroom;
(2) furniture and equipment; and
(3) other rooms and facilities;
necessary for the operation of the court.

(b) The county fiscal body shall appropriate sufficient funds for the provision and maintenance of the items described in subdivisions (1) through (3).

Sec. 8. (a) The jury commissioners appointed by the judge of the circuit court of the county in which the standard superior court is located shall serve as the jury commissioners for the standard superior court.

(b) A jury in the standard superior court shall be selected in the same manner as a jury in the circuit court of the county in which the standard superior court is located.

(c) A grand jury selected for the circuit court of the county in which the standard superior court is located shall serve as the grand jury for the standard superior court.

Sec. 9. (a) The judge of the circuit court of the county in which the standard superior court is located may, with the consent of the judge of the standard superior court, transfer any action or proceeding from the circuit court to the standard superior court.

(b) The judge of a standard superior court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the standard superior court to the circuit court of the county in which the standard superior court is located.

Sec. 10. (a) The judge of the circuit court of the county in which the standard superior court is located may, with the consent of the judge of the standard superior court, sit as a judge of the standard superior court in any matter as if the circuit court judge were an elected judge of the standard superior court.

(b) The judge of a standard superior court may, with the consent of the judge of the circuit court, sit as the judge of the circuit court of the county in which the standard superior court is located in any matter as if the judge of the standard superior court were the elected judge of the circuit court.

SECTION 292. IC 33-30 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 30. COUNTY COURTS

Chapter 1. Definitions

SECTION 293. IC 33-10.5-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-1-1] ~~Sec. 1. Gender, Number. For the purposes of this article, the masculine includes the feminine and, where appropriate, the singular includes the plural.~~

SECTION 294. IC 33-10.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-1-2] ~~Sec. 2. Purpose. It is the purpose of this article to create a new court known as the county court to replace justice of the peace courts.~~

SECTION 295. IC 33-10.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-1-3 part] Sec. 1. ~~As used in~~ **The definitions in this chapter apply throughout** this article.

[33-10.5-1-3 part] Sec. 2. "Chief justice" means the chief justice of Indiana.

[33-10.5-1-3 part] Sec. 3. "Judge" means a county court judge or, where the context requires, a judge of a unified superior court.

[33-10.5-1-3 part] Sec. 4. "Temporary transfer" means an assignment for ~~a period of time not to exceed~~ **more than** the duration of a six (6) year term.

Chapter 2. Establishment and Organization

SECTION 296. IC 33-10.5-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-1-4(a)] Sec. 1. ~~(a)~~ A county court is established in each county, except in a county **for which:**

(1) ~~for which IC 33-4~~ **????** provides a small claims docket of the circuit court;

(2) ~~for which IC 33-5~~ **????** provides a small claims docket of the superior court; or

(3) ~~for which IC 33-11.6~~ **????** provides a small claims court.

~~(b) Each county court has one (1) judge except as otherwise provided in this chapter.~~

SECTION 297. IC 33-10.5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-1-7] Sec. 2. Notwithstanding section ~~4~~ **1** of this chapter, Lake County does not have a county court. However, the county division of the superior court of Lake County shall maintain the dockets described in ~~IC 33-10.5-7-1.~~ **????.**

SECTION 298. IC 33-10.5-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-1-4(b)] Sec. 3. ~~(a) A county court is established in each county, except in a county~~

~~(1) for which IC 33-4 provides a small claims docket of the circuit court;~~

~~(2) for which IC 33-5 provides a small claims docket of the superior court; or~~

~~(3) for which IC 33-11.6 provides a small claims court.~~

~~(b)~~ Each county court has one (1) judge except as otherwise provided in this chapter.

SECTION 299. IC 33-10.5-1-6, AS AMENDED BY P.L.45-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-1-6] Sec. 4. The county court of Madison

County has two (2) judges.

SECTION 300. IC 33-10.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-2-3] Sec. 5. There ~~shall~~ **must** be one (1) division for each judge of the county court. Each division ~~shall~~ **must** include the entire county or counties the judge normally serves.

SECTION 301. IC 33-10.5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-2-4] Sec. 6. (a) The judge shall formulate ~~a~~ **an organizational** plan ~~of organization~~ for the efficient operation of ~~his~~ **the judge's** court. ~~which shall~~ **The organizational plan must** include ~~but not be limited to~~ provisions ~~which will~~ **to** facilitate **the** speedy disposition of cases involving motorists charged with the violation of **state** traffic laws. ~~of the state.~~

(b) The organizational plan ~~shall~~ **must** provide for a system of posting bond in traffic cases by designating the places where bond may be posted with due consideration given to factors of convenience to both law enforcement officers and alleged offenders.

(c) To facilitate the speedy disposition of cases involving traffic violations, the organizational plan ~~shall~~ **must** provide for a standard traffic violations bureau for the county court under IC 34-28-5-7 through IC 34-25-5-13. [QUERY: I think this last cite is a typo and should be IC 34-28-5-13 or 14..... no existing 34-25-5-13] The plan ~~shall~~ **must** insure ~~in such a case,~~ that the defendant is advised of all rights. A judge serving more than one (1) county shall establish a traffic violations bureau in each county.

SECTION 302. IC 33-10.5-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-2-5] Sec. 7. ~~Powers of Judges. Each~~ **(a) A** judge of the county court ~~shall have full power to make and~~ **may** adopt rules and regulations for conducting the business of the court.

(b) The judge of the county court ~~has the power to~~ **may do the following:**

(1) Perform marriages. ~~to~~

(2) Issue warrants. ~~to~~

(3) Issue and direct ~~all~~ **a** process necessary in exercising the court's jurisdiction. ~~to~~

(4) Make ~~all~~ proper judgments, sentences, decrees, and orders. ~~to~~

(5) Issue ~~all~~ process. ~~and~~

~~do all~~ **(6) Perform** acts necessary and proper to carry out the provisions of this article.

(c) The judge of the county court ~~shall have~~ **has** the same power as the judge of a circuit court ~~in relation to~~ **concerning the following:**

(1) The attendance of witnesses.

(2) The punishment of contempts and the enforcement of ~~its~~ **the**

judge's orders. ~~to administer~~

(3) The administration of oaths. ~~and to give all~~

(4) The issuance of necessary certificates for the authentication of the records and proceedings of the court.

SECTION 303. IC 33-10.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-5-1] Sec. 8. ~~Terms of Court, Vacation of Judges.~~ **(a)** The county court ~~shall~~ **may not** have ~~no~~ **a** term of court, but shall meet in continuous session.

(b) A vacation of one (1) month per year shall be provided for the judge of the county court. The judge of the county court shall coordinate ~~his~~ **the judge's** schedule in order that no great inconvenience is caused to ~~those~~ **a person** seeking the services of the court during the vacation period.

(c) The judge may appoint a judge pro tem to handle the court's judicial business during the judge's vacation or for any period the judge ~~deems~~ **considers** necessary. ~~In no event shall~~ The sitting of a judge pro tem **may not** become a standard practice of the court.

SECTION 304. IC 33-10.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-3-4] Sec. 9. The county court shall have a seal consisting of a circular disc containing the words, "_____ (insert name of county) County Court of the State of Indiana". ~~Where one (1) or more judges~~ **If a judge** normally ~~serve~~ **serves** more than one (1) county, there shall be a separate seal for each county.

Chapter 3. Judges

SECTION 305. IC 33-10.5-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-6-1] Sec. 1. ~~Retirement.~~ A person may not run for judge of a county court if ~~he~~ **the person** will be **at least** seventy (70) years of age ~~or older~~ before ~~he~~ **the person** begins ~~his~~ **the person's** term of office. The chief justice of the state ~~is empowered to~~ **may** authorize a judge retired due to age to perform temporary judicial duties in a county court.

SECTION 306. IC 33-10.5-4-1, AS AMENDED BY P.L.26-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-4-1] Sec. 2. To be eligible to serve as a county court judge, a person must:

(1) meet the qualifications prescribed by IC 3-8-1-18; and

(2) be a resident of the county that the county court judge serves.

SECTION 307. IC 33-10.5-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-4-2] Sec. 3. (a) The number of county court judges required by ~~IC 33-10.5-1~~ **????** shall be elected under IC 3-10-2-11 by the voters of each county or by the voters of two (2) counties if a judge is required to serve two (2) counties. The term of office of a county court judge is six (6) years,

beginning on January 1 after election and continuing until a successor is elected and qualified.

(b) In any county for which ~~IC 33-10.5-1~~ **????** provides more than one (1) judge of the county court, the county election board shall assign a number to each division of the court. After ~~that,~~ **the assignment,** any candidate for judge of the county court must file a declaration of candidacy under IC 3-8-2 or petition of nomination under IC 3-8-6 for one (1) specified division of the court. Each division of the court shall be listed separately on the election ballot in the form prescribed by IC 3-10-1-19 and IC 3-11-2.

SECTION 308. IC 33-10.5-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-6-6] Sec. 4. The judge of the county court:

(1) shall devote full time to ~~his~~ **the judge's** judicial duties; and

(2) may not engage in the practice of law.

SECTION 309. IC 33-10.5-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-8-4] Sec. 5. If the county court judge serves two (2) counties ~~which coincides~~ **that coincide** with the boundaries of a joint judicial circuit, ~~he~~ **the county court judge** shall coordinate ~~his~~ **the judge's** schedule with that of the circuit judge to insure, as far as practicable, the location of a full-time judge in each county.

SECTION 310. IC 33-10.5-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-3-9] Sec. 6. ~~Judicial Conference.~~ The judges of the county court shall be members of the judicial conference of Indiana created by ~~IC 1971, 33-13-14.~~ **?????.**

SECTION 311. IC 33-10.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-5-3] Sec. 7. Each judge of the county court shall be a participant in the judges' retirement fund under ~~IC 33-13.~~ **????.**

SECTION 312. IC 33-10.5-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-6-2] Sec. 8. ~~Disqualification on Pending Indictment or Recommendation for Removal.~~ A judge is disqualified from acting as a judicial officer, without loss of salary, while there is pending:

(1) an indictment or information charging ~~him~~ **the judge** in any court in the United States with a crime punishable as a felony under the laws of the state or the United States; or

(2) a recommendation to the supreme court by the commission on judicial qualifications ~~of the state of Indiana~~ for ~~his~~ **the judge's** removal or retirement.

SECTION 313. IC 33-10.5-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-6-3] Sec. 9. **(a)** The commission on judicial qualifications created ~~pursuant to~~ **under**

Article 7, Section 9 of the Indiana Constitution shall serve as the commission on judicial qualifications for judges of the county court.

(b) The procedures and practices provided by ~~IC 33-2.1~~ **????** for the organization and operation of the commission on judicial qualifications shall govern the practice and procedure in all proceedings brought under this section.

SECTION 314. IC 33-10.5-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-6-4] Sec. 10. ~~Suspension.~~ **(a)** On recommendation of the commission on judicial qualifications or on ~~its own~~ **a supreme court's** motion, the supreme court may suspend a judge from office without salary when, in any court in the United States, ~~he~~ **the judge:**

(1) pleads guilty **to;**

(2) pleads no contest **to;** or

(3) is found guilty of;

a crime punishable as a felony under the laws of a state or the United States or any crime that involves moral turpitude under the law.

(b) If ~~his~~ **the judge's** conviction is reversed, **the** suspension terminates and ~~he~~ **the judge** shall be paid ~~his~~ **the judge's** salary for the period of suspension.

(c) If ~~he~~ **the judge** is suspended and ~~his~~ **the judge's** conviction becomes final, the supreme court shall remove ~~him~~ **the judge** from office.

SECTION 315. IC 33-10.5-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-6-5] Sec. 11. ~~Retirement, Censure, Removal.~~ (a) On recommendation of the commission on judicial qualifications the supreme court may:

(1) retire a judge for **a** disability that seriously interferes with the performance of ~~his~~ **the judge's** duties and is or is likely to become permanent; and

(2) censure or remove a judge, for action occurring not more than six (6) years ~~prior to~~ **before** the commencement of ~~his~~ **the judge's** current term, when ~~such~~ **the** action constitutes:

(A) willful misconduct in office;

(B) willful and persistent failure to perform ~~his~~ **the judge's** duties;

(C) habitual intemperance; or

(D) conduct prejudicial to the administration of justice that brings that judicial office into disrepute.

(b) Upon receipt by the supreme court of a recommendation, the court shall hold a hearing and make ~~such determinations as required.~~ **a required determination.** The judge is entitled to be present at the hearing.

(c) A judge retired by the supreme court ~~shall be~~ **is** considered to

have retired voluntarily.

(d) A judge removed by the supreme court is ineligible for judicial office and, pending further order of the court, is suspended from practicing law in ~~the state.~~ **Indiana.** A judge removed forfeits ~~his~~ **the judge's** interest in the judges' retirement system or to an annuity under that law, except **for** the right of return of contributions made by ~~that~~ **the** judge, plus accrued interest.

SECTION 316. IC 33-10.5-10-3, AS ADDED BY P.L.196-1999, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-10-3] Sec. 12. (a) The judges of the Floyd circuit court, Floyd superior court, and Floyd county court may jointly appoint one (1) full-time magistrate under ~~IC 33-4-7~~ **????** to serve the circuit, superior, and county courts.

(b) The magistrate continues in office until removed by the judges of the Floyd circuit, superior, and county courts.

Chapter 4. Jurisdiction

SECTION 317. IC 33-10.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-3-1] Sec. 1. (a) The county court has the following jurisdiction:

(1) Original and concurrent jurisdiction in ~~all~~ civil cases founded on contract or tort in which the debt or damage claimed ~~does~~ **is** not ~~exceed~~ **more than** ten thousand dollars ($10,000).

(2) Original and concurrent jurisdiction in possessory actions between a landlord and tenant and original exclusive jurisdiction in actions for the possession of property where the value of the property sought to be recovered ~~does~~ **is** not ~~exceed~~ **more than** ten thousand dollars ($10,000).

(3) Original and concurrent jurisdiction of ~~all~~ **a** Class D felony, **a** misdemeanor, ~~and~~ **or an** infraction ~~cases.~~ **case.**

(4) Original and concurrent jurisdiction of ~~cases~~ **a case** involving the violation of ~~ordinances of cities, towns, or other municipal corporations.~~ **a:**

(A) city;

(B) town; or

(C) municipal corporation;

ordinance.

(5) Original and concurrent jurisdiction of ~~cases~~ **a case** involving ~~violations~~ **the violation** of ~~ordinances which relate to traffic.~~ **a traffic ordinance.**

(b) ~~Where~~ **If** a defendant is charged with a crime ~~not within~~ **outside** the jurisdiction of the county court, the court may hold the defendant to bail in an equal amount of either cash or surety.

SECTION 318. IC 33-10.5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-3-2] Sec. 2.

~~Injunctions, Receivers, Dissolutions of Marriage, Preliminary Hearings.~~ **(a)** The county court ~~has no~~ **does not have** jurisdiction in **the following:**

(1) Actions seeking injunctive relief or involving partition of real estate. ~~or to~~

(2) Actions to declare or enforce any lien. ~~thereon, nor shall the court have jurisdiction in~~

(3) Matters pertaining to paternity, juvenile, or probate. ~~and has no jurisdiction in~~

(4) Cases where the appointment of a receiver is asked. ~~or in~~

(5) Suits for dissolution of marriage.

(b) The county court has jurisdiction to conduct preliminary hearings in felony cases.

Chapter 5. Practice and Procedure

SECTION 319. AS AMENDED BY P.L.167-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-1] Sec. 1. **(a)** Each judge of the county court shall maintain the following dockets:

(1) An offenses and violations docket.

(2) A small claims docket for the following:

(A) All cases where the amount sought or value of the property sought to be recovered is **not more than** three thousand dollars ($3,000). ~~or less.~~ The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of ~~his~~ **the** claim **that is** over three thousand dollars ($3,000) to bring ~~it~~ **the claim** within the jurisdiction of the small claims docket.

(B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed ~~does~~ **is** not ~~exceed~~ **more than** three thousand dollars ($3,000).

(C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.

(3) A plenary docket for all other civil cases.

(b) This section expires July 1, 2005.

SECTION 320. AS AMENDED BY P.L.167-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-1] Sec. 2. **(a) This section applies after June 30, 2005.**

(b) Each judge of the county court shall maintain the following dockets:

(1) An offenses and violations docket.

(2) A small claims docket for the following:

(A) All cases where the amount sought or value of the property sought to be recovered is **not more than** six thousand dollars ($6,000). ~~or less.~~ The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of ~~his~~ **the**

claim **that is** over six thousand dollars ($6,000) to bring ~~it~~ **the claim** within the jurisdiction of the small claims docket.

(B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed ~~does~~ **is** not ~~exceed~~ **more than** six thousand dollars ($6,000).

(C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.

(3) A plenary docket for all other civil cases.

SECTION 321. IC 33-10.5-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-2] Sec. 3. ~~Practice and Procedure.~~ Except as otherwise provided in this article, the practice and procedure in the county court shall be as provided by statute and Indiana rules of procedure as adopted by the supreme court. ~~of Indiana.~~ However, in cases of the small claims docket ~~there shall be~~ the following exceptions **apply:**

~~(a)~~ **(1)** Defendants ~~shall be deemed to~~ **are considered to** have complied with the statute and rule requiring the filing of an answer upon entering ~~their~~ **an** appearance personally or by attorney. The appearance ~~shall be~~ **is** ~~deemed~~ **considered** a general denial and ~~shall preserve~~ **preserves** all defenses and compulsory counterclaims which may then be presented at the trial of the cause.

~~(b)~~ **(2)** If, at the trial of the cause, the court determines that the complaint is so vague and ambiguous that:

(A) the defendant was unable to determine the nature of **the** plaintiff's claim; or

~~that~~ **(B)** the plaintiff is surprised by **the** defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

~~(c)~~ **(3)** The trial ~~shall~~ **must** be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law. ~~and shall~~ **The trial may** not be bound by the statutory provisions or rules of practice, procedure, pleadings or evidence except provisions relating to privileged communications and offers of compromise.

SECTION 322. IC 33-10.5-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-3] Sec. 4. **Except as provided by statute or by rules of the supreme court,** there is ~~no~~ **not a right to a** change of venue from the county ~~as of right~~ in cases in the county court. ~~However, a change of venue from the judge shall be granted as provided by statute and rules of the supreme court of Indiana.~~

SECTION 323. IC 33-10.5-7-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-5] Sec. 5. (a) The filing of a small claim in the county court is deemed a waiver of trial by jury.

(b) The defendant may, not later than ten (10) days following service of the complaint, make demand for a trial by jury by affidavit:

(1) stating that there are questions of fact requiring a trial by jury; and

(2) specifying the ~~same~~ **facts** and that ~~such~~ **the demand** is intended in good faith.

(c) ~~Notice of the defendant's right to a jury trial, and the ten (10) day period in which to file for a jury trial, shall be clearly stated on~~ The notice of claim or on an additional sheet ~~to be~~ served with the notice of claim on the defendant **must clearly state:**

(1) the defendant's right to a jury trial; and

(2) the ten (10) day period in which to file for a jury trial.

(d) Upon the deposit of seventy dollars ($70) in the small claims docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim shall lose **the claim's** status as a small claim.

SECTION 324. IC 33-10.5-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-6] Sec. 6. With respect to jury trials for criminal cases in the county court, the jury ~~shall~~ **must** consist of the number of qualified jurors required by IC 35-37-1-1. When a jury trial is demanded, the county court may call a jury from the list provided and used by the circuit court.

SECTION 325. IC 33-10.5-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-7] Sec. 7. ~~Satisfaction of Judgment.~~ **(a)** If the court or jury finds against the defendant, the court shall specify the terms and conditions for satisfaction of the judgment. The judgment may be paid in installments.

(b) The judge may stay the issuance of execution and other supplementary process during compliance. The stay may be modified or vacated by the court.

SECTION 326. IC 33-10.5-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-8] Sec. 8. ~~Court of Record.~~ The county court ~~shall be~~ **is** a court of record.

SECTION 327. IC 33-10.5-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-9] Sec. 9. **(a)** All judgments rendered in civil actions ~~shall~~ **must** be properly recorded in the judgment docket book of the county court. Judgments ~~shall be~~ **are** liens on real estate when **the judgment is** entered in the county court judgment docket in the same manner as judgments in a court of general jurisdiction become liens on real estate under IC 34-55-9.

(b) The clerk of the county court shall keep a judgment docket in

which judgments ~~shall~~ **must** be entered and properly indexed in the name of the judgment defendant as judgments of circuit courts are entered and indexed.

SECTION 328. IC 33-10.5-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-7-10] Sec. 10. ~~Appeals.~~ An appeal of a judgment from the county court ~~shall~~ **must** be taken:

(1) in the same manner and under the same rules and statutes; and

(2) with the same assessment of costs;

as cases appealed from circuit court.

Chapter 6. Transfer of Cases and Judges

SECTION 329. IC 33-10.5-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-3-5] Sec. 1. ~~Transfer of Cases from Circuit, Superior or Criminal Court to the County Court.~~ **(a)** A judge of the circuit, superior, or criminal court may order a cause filed in ~~his~~ **the judge's** court to be transferred to the county court and entered in the appropriate docket if:

(1) the county court has jurisdiction of the cause concurrent with the circuit, superior, or criminal court; and

(2) the county court judge consents to the transfer.

(b) A judge of the county court may order a cause filed in the plenary or criminal docket of the county court to be transferred to the circuit, superior, or criminal court and entered in the appropriate docket if:

(1) the circuit, superior, or criminal court has jurisdiction of the cause concurrent with the county court; and

(2) the **county court** judge ~~thereof~~ consents to the transfer.

SECTION 330. IC 33-10.5-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-3-6] Sec. 2. (a) The county clerk shall prepare, and the county court judge shall certify and file, quarterly reports on March 31, June 30, September 30, and December 31 each year with the chief justice. ~~of the state.~~ The reports ~~shall~~ **must** include:

(1) the gross case filings, terminations, and cases remaining open, broken down by the type of case; and

(2) the number of jury trials, broken down by the type of case.

(b) The reports shall be:

(1) in a form prescribed; and

(2) distributed by;

the ~~Indiana~~ supreme court.

(c) Noncompliance with this section is grounds for censure or removal **of the judge** under [IC 33-10.5-6-5.]

SECTION 331. IC 33-10.5-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-3-7] Sec. 3. ~~On the~~

~~basis of~~ **Based on** the quarterly reports concerning the volume and nature of judicial workload **prepared under section 2 of this chapter,** the supreme court shall consider the temporary transfer of any judge of a county court to another county court if the temporary transfer is determined to be beneficial to facilitate the judicial work of the court to which the judge is transferred without placing an undue burden on the court from which the judge is transferred. However, ~~no~~ **a** judge ~~shall~~ **may not** be temporarily transferred to a court in another county which, at **the court's** nearest point, is more than ~~forth~~ **forty** (40) miles from the county seat that the judge normally serves unless the judge consents to the transfer.

SECTION 332. IC 33-10.5-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-3-8] Sec. 4. Any judge transferred to a court in another county shall be paid travel and other necessary expenses by the county to which ~~he~~ **the judge** is transferred. An allowance for expenses shall be certified by the chief justice in duplicate to the auditor of the county.

Chapter 7. County Responsibilities

SECTION 333. IC 33-10.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-8-1] Sec. 1. (a) The board of county commissioners of each county shall provide a suitable place ~~or places~~ for the holding of court for each judge of the county court sitting in **the board's** county. The county may rent suitable facilities from other governmental units.

(b) A judge may conduct hearings and hold court in cities or towns outside the place provided by the board of county commissioners if ~~he~~ **the judge** ~~deems~~ **considers** it necessary for the convenience of the citizens of the district.

(c) Each judge of the county court shall provide by rule for an evening session to be held ~~once~~ **one (1) time** each week in each county served by the court. Additional sessions in the evening and on holidays shall be held as necessary to ensure the just, speedy, and inexpensive determination of every action.

SECTION 334. IC 33-10.5-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-8-2] Sec. 2. (a) The clerk and sheriff of the county shall serve as the clerk and sheriff of the county court. The clerk and sheriff shall attend the court and discharge all duties pertaining to ~~their~~ **the** respective offices as required by law in circuit courts. ~~of the state of Indiana.~~

(b) The clerk shall permit cases to be filed in any normal weekday whether or not the county court judge is sitting in the county on that day.

(c) All instruments requiring the signature of the clerk in the county court's business shall be signed as "Clerk of the _____ County

Court.".

~~(b)~~ **(d)** The judge of the county court shall appoint a bailiff and a reporter and ~~such~~ other employees ~~as are~~ necessary to carry out the business of the court.

SECTION 335. IC 33-10.5-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-8-3] Sec. 3. (a) The county shall furnish all supplies, including ~~all~~ **the following:**

(1) Blanks, forms, and papers of every kind required for use in all cases. ~~and all~~

(2) Furniture.

(3) Books.

(4) Papers.

(5) Stationery.

(6) Recording devices. ~~and~~

(7) Other equipment and supplies of every character necessary for the keeping of the records of the proceedings and maintaining of the county court.

(b) The county shall provide a suitable place ~~or places~~ for the holding of court for the judge of the county court sitting in the county. The county shall pay the salary of the:

(1) deputy clerk;

(2) county police officer;

(3) bailiff; and

(4) reporter;

assigned to the county court as prescribed by law.

SECTION 336. IC 33-10.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.5-5-2] Sec. 4. (a) The salary of a county court judge who serves more than one (1) county shall be paid by the respective counties in equal amounts.

(b) The salary of every county court judge, as set by ~~IC 33-13-12,~~ **????,** shall be paid in equal monthly installments.

SECTION 337. IC 33-31 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 31. PROBATE COURTS

Chapter 1. St. Joseph County Probate Court

SECTION 338. IC 33-8-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-1] Sec. 1. There is ~~hereby~~ created and established a probate court in ~~the county of~~ St. Joseph ~~to be~~ **County** known as the St. Joseph Probate Court. **The court shall** ~~to~~ be presided over by one **(1)** judge to be chosen as ~~herein~~ provided **in this chapter.**

SECTION 339. IC 33-8-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-2] Sec. 2. ~~Such~~ **The**

court: ~~shall:~~

(1) ~~be~~ **is** a court of record; and

(2) shall have a seal and device, as the judge ~~thereof~~ may choose, ~~and~~ **with** the name of the county on ~~the face thereof; and~~ **its face.** A description and impression ~~thereof~~ **of the seal and device** shall be spread on the order book of the court.

SECTION 340. IC 33-8-2-3, AS AMENDED BY P.L.26-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-3] Sec. 3. (a) The court ~~shall consist~~ **consists** of one (1) judge, to be elected by the legal voters of ~~said~~ **the** county for the term of six (6) years:

(1) beginning on the first day of January following ~~his~~ **the** election **of the judge;** and

(2) continuing until ~~his~~ **the** successor ~~shall be~~ **of the judge is** elected and qualified.

The election ~~shall be had~~ **must occur** at the time of the general election every six (6) years. ~~Said~~

(b) The judge shall be commissioned by the governor in the same manner as judges of the circuit court. ~~and all~~ Vacancies occurring in the office of judge of ~~such~~ **the** probate court shall be filled by appointment by the governor, in the same manner as vacancies in the office of judge of the circuit court.

~~(b)~~ **(c)** To be eligible to hold office as a judge of the court, a person must be a resident of St. Joseph County.

SECTION 341. IC 33-8-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-4] Sec. 4. The clerk of the circuit court and the sheriff of the county where ~~such~~ **the** court is organized shall be ~~respectively~~ the clerk and sheriff of ~~said~~ **the probate** court. ~~and for their services they shall~~ **The clerk and the sheriff are** each ~~be~~ entitled to ~~such~~ fees **for their services** as are ~~or may be~~ allowed in the circuit court for ~~like~~ **similar** services.

SECTION 342. IC 33-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-5] Sec. 5. **(a)** The clerk and sheriff shall attend ~~said~~ **the** court and discharge all the duties pertaining to their respective offices ~~as they are now or may hereafter be~~ required ~~to do,~~ by law in the circuit court. ~~and~~

(b) All laws ~~now in force, or which may be enacted,~~ prescribing:

(1) the duties and liability of ~~such~~ **the** officers; ~~and~~

(2) the mode of proceeding against ~~them, or either of them~~ **either or both of the officers** for any neglect of official duty; **and**

(3) allowing fees and providing for the collection ~~thereof,~~ **of the fees;**

in the circuit court, ~~shall be held and deemed to~~ extend to ~~said~~ **the** probate court, as ~~far as they apply.~~ **applicable.**

SECTION 343. IC 33-8-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-6] Sec. 6. The ~~said~~ probate court shall hold ~~its~~ sessions at the courthouse of the county, or at ~~such~~ **any** other convenient place as **the** court ~~shall designate~~ **designates** in ~~such~~ **the** county. ~~and~~ The county commissioners shall provide suitable quarters ~~therefor.~~ **for the sessions.**

SECTION 344. IC 33-8-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-7] Sec. 7. The judge of ~~said~~ **the** court may adjourn the same on any day previous to the expiration of the time for which it may be held, and also from any one **(1)** day in the term over to any other day in the same term, if in ~~his~~ **the** opinion **of the judge,** the business of the court will ~~admit thereof.~~ **allow.**

SECTION 345. IC 33-8-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-8] Sec. 8. ~~Whenever~~ **When** a trial is begun and in progress at the time when by law, the term of ~~such~~ **the** court would expire, the term shall be extended until the close of ~~such~~ **the** trial.

SECTION 346. IC 33-8-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. **(a)** The probate court ~~within and for~~ **in** the county for which it is organized has original, concurrent jurisdiction with the superior courts of the county in all matters pertaining to **the following:**

(1) The probate of wills.

(2) Proceedings to resist probate of wills.

(3) Proceedings to contest wills.

(4) The appointment of guardians, assignees, executors, administrators, and trustees.

(5) The administration and settlement of estates of protected persons (as defined in IC 29-3-1-13) and deceased persons.

(6) The administration of trusts, assignments, adoption proceedings, and surviving partnerships. ~~and~~

~~in all~~ **(7) Any** other probate matters.

(b) The probate court ~~shall~~ **may** not have and exercise jurisdiction in civil actions.

SECTION 347. IC 33-8-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-11] Sec. 10. ~~Upon the organization of said probate court, all probate and juvenile causes pending in the circuit court of such county shall be transferred to such probate court. And all warrants, subpoenas, rules, orders of court, and other process which may have issued from the circuit court of such county, in such probate causes, shall be returnable to the probate court upon the first day of the first term thereof to be holden; and said~~ **The** probate court ~~shall have~~ **has** jurisdiction ~~thereof;~~ and **shall** proceed

~~therein; and~~ **in the probate and juvenile causes.** All proceedings in probate and juvenile causes in ~~said~~ **the** court shall be conducted as proceedings are ~~or may be~~ required, by law, to be conducted in the circuit court in the counties **not** having ~~no~~ **a** probate court.

SECTION 348. IC 33-8-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-12] Sec. 11. ~~Any~~ **A** judge of ~~said~~ **the** probate court ~~shall be competent to~~ **may** act as judge of any circuit court or superior court upon the trial of any cause or proceeding, when:

(1) the judge of ~~said~~ **the** circuit or superior court may be incompetent to try the cause; or

(2) a change of venue be granted for objection to the judge. ~~thereof.~~

SECTION 349. IC 33-8-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-13] Sec. 12. **(a)** If, from ~~any~~ **a** cause ~~any~~ **the** judge of ~~said~~ **the** probate court ~~shall be~~ **is** unable to attend and preside at any term of ~~said~~ **the** court, or during any part of a term, ~~such~~ **the** judge may appoint, in writing, ~~any~~ **an** attorney eligible to the office of ~~such~~ **the** judge, at ~~such~~ **the** term or part of a term. ~~Such~~

(b) A written appointment shall be entered of record in ~~said~~ **the** court. ~~and~~

(c) If the appointee is not a judge of a court of record, ~~he~~ **the appointee** shall take the same oath required by law of judges of the probate ~~court; and such~~ **court.**

(d) The appointee ~~shall have~~ **has** the same power and authority during the continuance of ~~his~~ **the** appointment **of the judge** as a regularly elected judge of ~~said~~ **the** court.

SECTION 350. IC 33-8-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-14] Sec. 13. ~~Whenever any~~ **(a) When a** person ~~shall be~~ **is** appointed judge pro tem under ~~the provisions of~~ this chapter, ~~he shall be~~ **the appointee** is entitled to ten dollars ~~($10.00)~~ **($10)** for each day ~~he~~ **the appointee** ~~may serve~~ **serves** as ~~such~~ **the** judge to be paid out:

(1) of the county treasury **of the county** where ~~such~~ **the** probate court is held;

(2) upon the warrant of the county auditor; **and**

(3) based upon the filing of a claim ~~therefor~~ approved by the judge of ~~said~~ **the** court.

(b) Any amount ~~in excess of~~ **more than** five hundred dollars ($500) allowed to ~~any~~ **a** judge pro tem, during any year shall be deducted by the board of county commissioners from the regular annual salary of the judge of ~~such~~ **the** probate court making the appointment ~~except where such~~ **unless the** judge pro tem ~~shall~~ **is** be appointed on account

of change of venue, relationship, interest as former counsel, or absence of judge in case of serious sickness of ~~himself~~ **the judge** or **a** family **member of the judge.**

SECTION 351. IC 33-8-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-15] Sec. 14. The process of ~~said~~ **the** court ~~shall~~ **must:**

(1) have the seal affixed; and

(2) be attested, directed, served, and returned; and

(3) be in form as is or may be provided for process issuing from the circuit court.

SECTION 352. IC 33-8-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-16] Sec. 15. ~~Said~~ **(a) The probate** court ~~shall be~~ **is** a court of record and of general jurisdiction. ~~and its~~

(b) The court's judgments, decrees, orders, and proceedings: ~~shall~~

(1) have the same force and effect as those of the circuit court; and

(2) shall be enforced in the same manner.

SECTION 353. IC 33-8-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-17] Sec. 16. **(a)** The judge of ~~said~~ **the** court: ~~shall have full power and authority to~~

(1) may make and adopt rules and regulations for conducting the business of the court, not repugnant to the laws of this state; and ~~shall have~~ **(2) has** all the power incident to a court of record and of general original jurisdiction, in relation to the attendance of witnesses, the punishment of contempts, and enforcing its orders. ~~And~~

(b) The judges of ~~said~~ **the** court ~~shall each have full authority to~~ **may:**

(1) administer oaths;

(2) take and certify acknowledgments of deeds; and

(3) give all necessary certificates for the authentication of the records and proceedings in ~~said~~ **the** court.

SECTION 354. IC 33-8-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-18] Sec. 17. **Under the direction of the judge,** the clerk shall ~~under the direction of the judge,~~ provide for ~~such~~ court order books, judgment dockets, execution dockets, fee books, and ~~such~~ other books, records, and supplies as may be necessary. ~~and~~ All books, papers, and proceedings of ~~said~~ **the** court shall be kept distinct and separate from those of other courts.

SECTION 355. IC 33-8-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-19] Sec. 18. The judge of ~~said~~ **the** court ~~shall have~~ **has** the same power as the circuit court of ~~said~~ **the** county in term or in vacation to:

(1) grant restraining orders, injunctions, and writs of ne exeat;

~~to~~ **(2)** issue writs of habeas corpus, and of mandate and prohibition; **and**

~~to~~ **(3)** appoint receivers, master commissioners for the examination of witnesses, and other officers necessary to facilitate and transact the business of ~~such~~ **the** court.

SECTION 356. IC 33-8-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-20] Sec. 19. ~~Any~~ **A** party may appeal to the supreme court or the court of appeals from the order or judgment of the **probate** court in any case in which ~~under existing or future laws of this state,~~ an appeal may be had from an order or judgment of the circuit court. The appeal shall be regulated by the law regulating appeals from the circuit court to the court of appeals and the supreme court, so far as applicable. An appeal may also be taken to the court of appeals and the supreme court in the same manner and in like cases as from circuit courts.

SECTION 357. IC 33-8-2-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-21] Sec. 20. **(a)** The same docket fees shall be taxed in the ~~said~~ court as are ~~now or may be~~ provided by law to be taxed in the circuit court. ~~and~~

(b) The ~~said~~ fees, when collected, shall be paid by the clerk to the treasurer of the county to be applied in reimbursing the county for expenses of ~~said~~ **the** court.

SECTION 358. IC 33-8-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-22] Sec. 21. (a) The salary of the judge of ~~such~~ **the** probate court shall be the same as that of the judge of the circuit court of ~~such~~ **the** county. ~~and~~ The salary of ~~such~~ **the** judge and the compensation of a judge pro tempore shall be paid in the same manner ~~respectively~~ and from the same sources as the judge of ~~said~~ **the** circuit court or judges pro tempore of ~~said~~ **the** court.

(b) A full-time judge of a probate court may not be paid compensation for serving as a special judge, except reasonable expenses for meals, lodging, travel, and other incidental expenses approved by the state court administrator.

SECTION 359. IC 33-8-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-23] Sec. 22. ~~Said~~ **The** probate court may appoint a chief clerk and ~~such~~ other employees as ~~he~~ **the judge** ~~deems~~ **considers** necessary whose salaries shall be fixed by ~~said~~ **the** judge and be paid out of the county treasury.

SECTION 360. IC 33-8-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-8-2-24] Sec. 23. ~~Said~~ **The** probate judge shall appoint ~~such~~ **the** probation officers ~~as are~~ authorized by law to be appointed by the judge having juvenile jurisdiction. ~~which~~ **The** probation officers shall perform the same

duties and receive the same compensation as is by law provided.

SECTION 361. IC 33-32 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 32. CIRCUIT COURT CLERKS

Chapter 1. Definitions

SECTION 362. IC 33-17-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-1 part] Sec. 1. As used in this article, "clerk" means a clerk of the circuit court elected and qualified under Article 6, Sections 2 and 4 of the Constitution of the State of Indiana. ~~In a county having one (1) or more superior courts or a county, municipal, or probate court, the clerk shall serve as clerk of the superior, county, municipal, and probate court as well as clerk of the circuit court.~~

Chapter 2. General Powers and Duties

SECTION 363. IC 33-17-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-1 part] Sec. 1. ~~As used in this article, "clerk" means a clerk of the circuit court elected and qualified under Article 6, Sections 2 and 4 of the Constitution of the State of Indiana.~~ In a county having one (1) or more superior courts or a county, municipal, or probate court, the clerk shall serve as clerk of the superior, county, municipal, and probate court as well as clerk of the circuit court.

SECTION 364. IC 33-17-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-2] Sec. 2. A clerk of the circuit court shall be elected under IC 3-10-2-13 by the voters of each county. The term of office of a clerk is four (4) years, continuing until a successor is elected and qualified.

SECTION 365. IC 33-17-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-3] Sec. 3. In the manner prescribed by IC 5-4-1, the clerk of each county shall execute a bond conditioned upon:

(1) the faithful discharge of the duties of ~~his~~ **the clerk's** office; and

(2) the proper payment of all money ~~that may come into his hands as~~ **received by the office of the** clerk.

SECTION 366. IC 33-17-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-5] Sec. 4. (a) The board of county commissioners shall provide the clerk with an office at the county seat in a building provided for that purpose.

(b) The clerk shall keep the office open on every day of the year except on Sundays and legal holidays. However, the clerk:

(1) shall keep ~~his~~ **the** office **of the clerk** open on those days and ~~at those~~ times ~~that are~~ necessary for the proper administration of the election statutes; and

(2) may close the office on those days that the judge of the circuit court orders the court closed in accordance with the custom and practice of the county.

(c) Any legal action required to be taken in the office of the clerk during the time the office is closed under this section may be taken on the next following day the office is open.

SECTION 367. IC 33-17-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-7] Sec. 5. A clerk may administer all oaths.

SECTION 368. IC 33-17-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-8] Sec. 6. A clerk shall carry out the duties prescribed for ~~him~~ **a clerk** in IC 3 concerning elections.

SECTION 369. IC 33-17-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-6] Sec. 7. A clerk shall post in a conspicuous place in ~~his~~ **the clerk's** office a table of ~~his~~ **the clerk's** fees. If ~~he~~ **a clerk** fails to post a table of fees, a clerk ~~is~~ **may** not ~~entitled to~~ demand or receive fees for services ~~that he renders.~~ **rendered.**

SECTION 370. IC 33-17-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-9] Sec. 8. The clerk may not become the purchaser of any judgment, decree, or allowance of any court of which ~~he~~ **the clerk** is an officer. ~~and~~ All ~~such~~ **these** purchases are void as to the purchaser.

Chapter 3. Record Keeping Duties

SECTION 371. IC 33-17-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-2-1] Sec. 1. (a) The clerk shall endorse **the time of filing** on each writing required to be filed in ~~his~~ **the** office ~~the time when it was filed.~~ **of the clerk.**

(b) The clerk shall carefully preserve in ~~his~~ **the** office **of the clerk** all records and writings pertaining to ~~his~~ **the clerk's** official duties.

(c) The clerk shall procure, at the expense of the county, all necessary judges' appearance, bar, judgment, and execution dockets, order books, and final record books.

(d) The clerk shall:

(1) attend, in person or by deputy, the circuit court of the county; and

(2) enter in proper record books all orders, judgments, and decrees of ~~that~~ **the** court.

(e) ~~Within~~ **Not more than** fifteen (15) days after the cases are finally determined, the clerk shall enter in final record books a complete record of:

(1) all cases involving the title to land;

(2) all criminal cases in which the punishment is death or

imprisonment, except where a nolle prosequi is entered or an acquittal is had; and

(3) all other cases, at the request of either party and upon payment of the costs.

SECTION 372. IC 33-17-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-2-3] Sec. 2. (a) The clerk shall keep a circuit court judgment docket.

(b) Upon the filing in ~~his~~ **the** office ~~of~~ **of the clerk** a statement or transcript of any judgment for the recovery of money or costs, the clerk shall enter, and index in alphabetical order, in this judgment docket a statement of the judgment showing the following:

(1) The names of all the parties.

(2) The name of the court.

(3) The number of the cause.

(4) The book and page of the record in which the judgment is recorded.

(5) The date the judgment is entered and indexed.

(6) The date of the rendition of judgment.

(7) The amount of the judgment and the amount of costs.

(c) If a judgment is against several persons, the statement required to be entered under subsection (b) shall be repeated under the name of each judgment debtor in alphabetical order.

(d) A person interested in any judgment for money or costs that has been rendered by any ~~Indiana~~ state court, or by any federal court of general original jurisdiction sitting in Indiana, may have the judgment entered upon the circuit court judgment docket by filing with the clerk:

(1) a statement setting forth the facts required under subsection (b); or

(2) a transcript of the judgment;

certified under the hand and seal of the court that rendered the judgment.

SECTION 373. IC 33-17-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-2-4] Sec. 3. The circuit court judgment docket is a public record that is open during the usual hours of transacting business ~~to the~~ **for** examination ~~of~~ **by** any person. ~~desiring it.~~

SECTION 374. IC 33-17-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-2-5] Sec. 4. A clerk shall:

(1) enter a judgment or recognizance ~~within~~ **not more than** fifteen (15) days after its rendition; or

(2) cause a release of judgment to be entered on the judgment docket ~~within~~ **not more than** fifteen (15) days after satisfaction of the judgment.

SECTION 375. IC 33-17-2-6 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-2-6] Sec. 5. (a) The clerk shall keep an execution docket.

(b) The clerk shall enter all executions on the execution docket as they are issued by ~~him,~~ **the clerk,** specifying in proper columns the following information:

(1) The names of the parties.

(2) The amount of the judgment and the interest due upon the issuing of the execution.

(3) The costs.

The clerk shall also prepare an additional column in which ~~he~~ **the clerk** shall enter at length the return of the sheriff.

(c) The execution docket entries may be inspected and copied under IC 5-14-3-3.

SECTION 376. IC 33-17-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-2-8] Sec. 6. (a) Before the twenty-fifth day of each month, the clerk shall prepare a report showing as of the close of business on the last day of the preceding month the following information:

(1) The balance, if any, of fees payable to the county.

(2) Fees collected for fish and game licenses.

(3) Trust funds held, including payments collected for support.

(4) The total of the balances of all fees and funds.

(5) The record balance of money in each depository at the end of the month.

(6) The cash in the office at the close of the last day of the month.

(7) Any other items for which the clerk of the circuit court is entitled to credit.

(8) The total amount of cash in each depository at the close of business on the last day of the month.

(9) The total of checks issued against each depository that are outstanding at the end of the month and unpaid by the depositories.

(b) The clerk shall:

(1) retain one (1) copy as a public record of the clerk's office; and

(2) file three (3) copies with the county auditor, who shall:

(A) present one (1) copy to the board of commissioners of the county at its next regular meeting; and

(B) transmit one (1) copy to the state board of accounts.

Each copy of the report ~~shall~~ **must** be verified by the certification of the clerk. The clerk shall file the original with the county auditor, who shall file it with the records of the county board of finance.

(c) The state board of accounts shall prescribe forms for the clerk's monthly reports.

SECTION 377. IC 33-17-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-2-9] Sec. 7. (a) The

clerk shall keep a register of witness fees and other court fees.

(b) ~~As soon as he~~ **When the clerk** receives money in payment of court fees or fees for a witness or any other person, the clerk shall make an entry into the register recording the receipt of the payment.

(c) The register must contain the following information:

(1) The names, in alphabetical order, of persons for whom payment has been received.

(2) The cause for which the fee is paid.

(3) In which fee book and on which page the fee is taxed.

(4) The amount paid.

(5) When the fee was paid in and when it was paid out.

(d) The register must be open for inspection at all times in a conspicuous place in ~~his~~ **the clerk's** office.

SECTION 378. IC 33-17-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-2-11] Sec. 8. At the end of ~~his~~ **the clerk's** term, the clerk shall deliver to ~~his~~ **the clerk's** successor all ~~of~~ the records, books, and papers belonging to ~~his~~ **the clerk's** office.

SECTION 379. IC 33-17-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-2-2] Sec. 9. The county council shall appropriate reasonable sums to the clerk for necessary blank books and stationery.

Chapter 4. Child Support Payments

[33-17-1-4.1 (a)] Sec. 1. ~~(a)~~ As used in this ~~section,~~ **chapter,** "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, a telephone, or a computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

SECTION 380. IC 33-17-1-4, AS AMENDED BY P.L.98-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-4(a)] Sec. 2. ~~(a)~~ As used in this ~~section,~~ **chapter,** "Indiana support enforcement tracking system (ISETS)" refers to the statewide automated system for the collection, disbursement, and distribution of child support payments established by the division of family and children.

[33-17-1-4(b)] Sec. 3. ~~(b)~~ The clerk may receive funds:

(1) in payment of judgments; and

(2) ordered to be paid into the court by the judge.

[33-17-1-4(c)] Sec. 4. ~~(c)~~ Except as provided in ~~subsections (d) and (g),~~ **sections 5 and 8 of this chapter,** the clerk is liable, with ~~his~~ **the clerk's** sureties, on ~~his~~ **the clerk's** official bond for all funds received to any person who is entitled to demand and receive those funds from ~~him.~~ **the clerk.**

[33-17-1-4(d)] Sec. 5. ~~(d)~~ The clerk is not personally liable or liable

in the clerk's official capacity on the clerk's official bond for funds received if the clerk:

(1) through error or in accordance with the best information available to the clerk, disbursed the funds to a person the clerk reasonably believed to be entitled to receive the funds and to comply with a:

(A) child support order; or

(B) garnishment order;

(2) inappropriately disbursed or misapplied child support funds, arising without the knowledge or approval of the clerk, that resulted from:

(A) an action by an employee of, or a consultant to, the division of family and children;

(B) an ISETS technological error; or

(C) information generated by ISETS;

(3) disbursed funds that the clerk reasonably believed were available for disbursement but that were not actually available for disbursement;

(4) disbursed child support funds paid to the clerk by a personal check that was later dishonored by a financial institution; and

(5) did not commit a criminal offense as a part of the disbursement.

[33-17-1-4(e)] Sec. 6. ~~(e)~~ If the clerk improperly disburses funds in the manner described by ~~subsection (d),~~ **section 5 of this chapter,** the clerk shall do the following:

(1) Deduct an amount equal to the amount of funds improperly disbursed from fees collected under ~~IC 33-19-6-5.~~ **?????.**

(2) Credit each account from which funds were improperly disbursed with the amount of funds improperly disbursed under ~~subsection (d).~~ **section 5 of this chapter.**

(3) Notify the prosecuting attorney of the county of:

(A) the amount of the improper disbursement;

(B) the person from whom the amount of the improper disbursement should be collected; and

(C) any other information to assist the prosecuting attorney to collect the amount of the improper disbursement.

(4) Record each action taken under this subsection on a form prescribed by the state board of accounts.

[33-17-1-4(f)] Sec. 7. ~~(f)~~ If:

(1) fees collected under ~~IC 33-19-6-5~~ **?????** are credited to an account under ~~subsection (c)(2)~~ **section 6(2) of this chapter** because a check or money order was dishonored by a financial institution or was the subject of a stop payment order; and

(2) a person subsequently pays to the clerk all or part of the amount of the check or money order that was dishonored or the

subject of a stop payment order;

the clerk ~~shall~~ **must** reimburse the account containing fees collected under ~~IC 33-19-6-5~~ **?????** using the amount the person paid to the clerk.

[33-17-1-4(g)] Sec. 8. ~~(g)~~ The clerk is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if:

(1) the check was tendered to the clerk for the payment of a:

(A) fee;

(B) court ordered payment; or

(C) license; and

(2) the acceptance of the check was not an act or omission constituting gross negligence or an intentional disregard of the responsibilities of the office of clerk.

SECTION 381. IC 33-17-1-4.1, AS ADDED BY P.L.15-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-1-4.1] Sec. 9. ~~(a) As used in this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, a telephone, or a computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.~~

~~(b)~~ **(a)** The clerk may provide for the:

(1) payment; and

(2) disbursement;

of child support payments by electronic funds transfer.

~~(c)~~ **(b)** A person may request the clerk in writing to allow the person to:

(1) pay child support to the clerk; or

(2) receive child support payment distributions from the clerk;

by means of an electronic funds transfer.

~~(d)~~ **(c)** A person's written request ~~shall~~ **must** authorize in advance the electronic transfer of funds. The person's written authorization must designate a financial institution and an account number. The person's authorization remains in effect until the person revokes it in writing.

~~(e)~~ **(d)** The clerk may not make an electronic funds transfer under this section except in accordance with procedures adopted by the state board of accounts.

Chapter 5. Collection of Fees; Marriage Licenses, Junk Dealing, and Distress Sales

SECTION 382. IC 33-17-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-14-2] Sec. 1. (a) For issuing a marriage license under ~~IC 31-7-3,~~ **IC 31-11-4,** the clerk shall collect a fee of ten dollars ($10). ~~When collected,~~ **The clerk shall pay**

these fees ~~shall be paid~~ to the treasurer of state, who shall deposit the money in the state user fee fund established by ~~IC 33-19-9-2.~~ **????.**

(b) For issuing a marriage certificate under IC 31-11-4, the clerk shall collect ~~a~~ **the following** fee: ~~of:~~

(1) Eight dollars ($8), if at least one (1) of the individuals is a resident of Indiana. ~~or~~

(2) Fifty dollars ($50), if neither of the individuals is a resident of Indiana.

When collected, these fees shall be deposited in the general fund of the county.

SECTION 383. IC 33-17-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-17-14-3] Sec. 2. For issuing a license to hold a distress sale under IC 25-18-1-6, the clerk shall collect ~~a~~ **the following** fee: ~~of:~~

(1) Forty dollars ($40) if the value of the inventory is ~~no~~ **not** more than twenty-five thousand dollars ($25,000).

(2) Sixty-five dollars ($65) if the value of the inventory is more than twenty-five thousand dollars ($25,000) but ~~no~~ **not** more than fifty thousand dollars ($50,000).

(3) One hundred dollars ($100) if the value of the inventory is more than fifty thousand dollars ($50,000) but ~~no~~ **not** more than seventy-five thousand dollars ($75,000). ~~and~~

(4) One hundred fifty dollars ($150) if the value of the inventory is more than seventy-five thousand dollars ($75,000).

SECTION 384. IC 33-33 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 33. COURT SYSTEM ORGANIZATION IN EACH COUNTY

Chapter 1. Adams County

SECTION 385. IC 33-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-1] Sec. 1. ~~The County of~~ Adams ~~shall constitute~~ **County constitutes** the twenty-sixth Judicial Circuit. ~~of the State of Indiana.~~

SECTION 386. IC 33-5-4.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-4.5-1] Sec. 2. **(a)** There is established a court of record to be known as the Adams superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Adams Superior Court, Adams County, Indiana".~~

(b) The Adams superior court is a standard superior court as described in IC 33-29-1.

(c) Adams County comprises the judicial district of the court.

SECTION 387. IC 33-5-4.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-4.5-7] Sec. 3. The

Adams superior court **has one (1) judge who** shall hold ~~its~~ sessions in the Adams County courthouse in Decatur, Indiana, or in ~~such~~ other places in the county as the board of county commissioners of Adams County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Adams County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 388. IC 33-5-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-4.5-3] Sec. 4. The **Adams superior** court has the same jurisdiction as the Adams circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 389. IC 33-5-4.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-4.5-11] Sec. 5. The **Adams superior** court has a standard small claims and misdemeanor division.

Chapter 2. Allen County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 390. IC 33-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-2] Sec. 2. ~~The county of~~ Allen ~~shall constitute~~ **County constitutes** the thirty-eighth Circuit.

SECTION 391. IC 33-4-1-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-2.1] Sec. 3. The judge of the Allen circuit court may appoint one (1) full-time magistrate under [IC 33-4-7]. The magistrate continues in office until removed by the judge.

SECTION 392. IC 33-4-1-2.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-2.8] Sec. 4. (a) The Allen circuit court has concurrent jurisdiction with the Allen superior court concerning paternity actions.

(b) In addition to the magistrate appointed under section ~~2.1~~ **3** of this chapter, the judge of the Allen circuit court may appoint a hearing officer with the powers of a magistrate under ~~IC 33-4-7.~~ **????.** The hearing officer continues in office until removed by the judge.

(c) The salary of a hearing officer appointed under subsection (b) is equal to that of a magistrate under ~~IC 33-4-7.~~ **????.** The hearing officer's salary must be paid by the county. The hearing officer is a county employee.

SECTION 393. IC 33-5-5.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-1] Sec. 5. ~~(Court Created)~~ **(a)** There ~~shall be and~~ is ~~hereby~~ established a superior court in Allen County. ~~Indiana.~~

SECTION 394. IC 33-5-5.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: ~~(Name)~~ **(b)** The **superior**

court ~~shall be~~ **is** named ~~and styled~~ **the** Allen superior court.

SECTION 395. IC 33-5-5.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-5] ~~(Court of Record)~~ **(c)** The **Allen superior** court ~~shall be~~ **is** a court of record, and its judgments, decrees, orders, and proceedings ~~shall~~ have the same force and effect and shall be enforced in the same manner as those of the **Allen** circuit court.

SECTION 396. IC 33-5-5.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-3] Sec. 6. ~~(Seal)~~ The **Allen superior** court shall have a seal consisting of a circular disk containing the words, "Allen Superior Court", "Indiana", **and** "Seal", ~~and such~~ **in a** design as the court may determine. An impression of ~~which~~ **the seal** shall be spread of record upon the order book of the **superior** court.

SECTION 397. IC 33-5-5.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-9] Sec. 7. ~~(Where Court Held)~~ **(a)** The Allen superior court shall hold its sessions in:

(1) the Allen County court house in ~~the city of~~ Fort Wayne; ~~State of Indiana; and~~

(2) in ~~such~~ other places in Allen County as the court may ~~from time to time~~ determine.

(b) The board of county commissioners of Allen County shall provide and maintain in the court house and at ~~such~~ other places in Allen County as the court may determine, 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 ~~such~~ other facilities as may be necessary.

(c) The board of county commissioners of Allen County shall also provide all necessary furniture and equipment for rooms and offices of the court.

SECTION 398. IC 33-5-5.1-29, AS AMENDED BY P.L.176-1999, SECTION 128, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-8] Sec. 8. (a) The Allen ~~County~~ superior court consists of nine (9) judges **as follows:**

(1) Two (2) judges serve in the family relations division.

(2) Three (3) judges serve in the criminal division. ~~and~~

(3) Four (4) judges serve in the civil division. ~~Each~~

A newly elected or appointed judge assumes the division assignment of the judge whom the judge replaces.

(b) If, at any time, in the opinion of a majority of the judges, there is an undue disparity in the number of cases in any division, the chief judge may assign specific cases normally assigned to that division to a judge in another division as a majority of the judges direct.

(c) During the period under IC 3-8-2-4 in which a declaration of

candidacy may be filed for a primary election, any person desiring to become a candidate for one (1) of the Allen superior court judgeships must file with the election division a declaration of candidacy adapted from the form prescribed under IC 3-8-2 that:

(1) is signed by the candidate; and

(2) designates the division and the name of the incumbent judge of the judgeship that the candidate seeks.

(d) A petition without the designation required under subsection (c) shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2).

(e) If an individual who files a declaration under subsection (c) ceases to be a candidate after the final date for filing a declaration under subsection (c), the election division may accept the filing of additional declarations of candidacy for that seat not later than noon August 1.

SECTION 399. IC 33-5-5.1-29. IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-29] Sec. 9. (a) All candidates for each respective Allen superior court judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11-2, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(b) IC 3, except where inconsistent with this chapter, applies to elections held under this chapter.

(c) The term of each Allen superior court judge:

(1) begins January 1 following election and ends December 31 following the election of a successor; and

(2) is six (6) years.

SECTION 400. IC 33-5-5.1-29.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-29.3] Sec. 10. (a) To qualify as a candidate for Allen superior court judge, a person:

(1) must be a citizen of the United States domiciled in Allen County;

(2) must have at least five (5) years active practice of law, including cases involving matters assigned to the division in which ~~he~~ **the person** would serve as judge;

(3) may not previously have had any disciplinary sanction imposed upon ~~him~~ **the person** by the supreme court disciplinary commission of Indiana or any similar body in another state; and

(4) may not previously have been convicted of any felony.

(b) If a person does not qualify under subsection (a), ~~he~~ **the person** may not be listed on the ballot as a candidate. However, an individual who was a judge of the court on January 1, 1984, does not have to comply with ~~the requirements of~~ subsection (a)(2).

SECTION 401. IC 33-5-5.1-29.5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-29.5] Sec. 11. ~~(a) As used in this section:~~

~~(1) "contribution" has the meaning given in IC 3-5-2-15;~~

~~(2) "political action committee" has the meaning given in IC 3-5-2-37; and~~

~~(3) "regular party committee" has the meaning given in IC 3-5-2-42.~~

~~(b) No~~ **A** judge or candidate for judge of the Allen superior court may **not:**

(1) accept a contribution **(as defined in IC 3-5-2-15)** from any political party, political action committee **(as defined in IC 3-5-2-37),** or regular party committee **(as defined in IC 3-5-2-42);** or

(2) accept more than a total of ten thousand dollars ($10,000) in contributions from all sources to pay expenses connected with ~~his~~ **the candidate's** candidacy.

SECTION 402. IC 33-5-5.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: ~~Sec. 10. (Salaries of Judges) The judges of the court shall receive the same salary as is now, or may hereafter be provided by law to be paid to the judge of the Allen Circuit Court, which salary shall be paid at the time and in the same manner as the judge of the Allen Circuit Court is now paid.~~ [QUERY: Probably not needed anymore.]

SECTION 403. IC 33-5-5.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-5] Sec. 12. ~~(Rules and Regulations — Incidental Powers of Judges)~~ **(a)** The **Allen superior** court:

~~shall have full power and authority to~~ **(1) may** make and adopt rules and regulations for conducting the business of the court, not repugnant to ~~the~~ **Indiana** laws ~~of this state,~~ and the rules of the supreme court; ~~of Indiana,~~ and

~~shall have~~ **(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 ~~shall have the full authority to~~ **of the superior court may** administer oaths, solemnize marriages, take and certify acknowledgments of deeds, and all legal instruments, and to give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 404. IC 33-5-5.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-7] Sec. 13. ~~(Orders, Writs, Appointments, Commissions)~~ The **Allen superior** court ~~shall have the same power to~~ **may:**

(1) grant restraining orders, injunctions, and writs of ne exeat

[QUERY: OBSOLETE WRITE?]; ~~to~~

(2) issue writs of habeas corpus; ~~to~~

(3) appoint receivers, masters, and commissioners to convey real property and to grant commissions for the examination of witnesses; and ~~to~~

(4) appoint other officers necessary to facilitate and transact the business of the court;

as ~~is now or may hereafter be~~ conferred on circuit courts or the judges ~~thereof.~~ **of circuit courts.**

SECTION 405. IC 33-5-5.1-8, AS AMENDED BY P.L.133-2002, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-8] Sec. 14. (a) The **Allen superior** court may appoint ~~such number of~~ probate commissioners, juvenile referees, bailiffs, court reporters, probation officers, and ~~such~~ other personnel, including ~~but not limited to~~ an administrative officer, as shall ~~in~~ the ~~opinion of~~ the court ~~be~~ **believes are** necessary to facilitate and transact the business of the court.

(b) In addition to the personnel authorized under ~~this~~ subsection **(a)** and IC 31-31-3, **the following magistrates may be appointed:**

(1) The judges of the Allen superior court-civil division may jointly appoint not more than four (4) full-time magistrates under [IC 33-4-7] to serve the Allen superior court-civil division. The judges of the Allen superior court-civil division may jointly assign any ~~such~~ magistrates the duties and powers of a probate commissioner. In addition to the personnel authorized under this subsection and IC 31-31-3.

(2) The judge of the Allen superior court-criminal division may jointly appoint not more than three (3) full-time magistrates under [IC 33-4-7] to serve the Allen superior court-criminal division. Any ~~such~~ magistrate serves at the pleasure of, and continues in office until jointly removed by, the judges of the division that appointed the magistrate.

(c) All appointments made under this ~~subsection shall~~ **section must** be made without regard to the political affiliation of the appointees. The salaries of the ~~above~~ personnel shall be fixed and paid as provided by law. If the salaries of any of the ~~above~~ personnel are not provided by law, the amount and time of payment of ~~such~~ **the** salaries 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 be entered of record. The officers and persons ~~so~~ appointed shall perform ~~such~~ duties as are prescribed by the court. Any ~~such~~ administrative officer appointed by the court shall operate under the jurisdiction of the chief judge and ~~shall~~ serve at the pleasure of the chief judge. Any ~~such~~ probate commissioners, magistrates, juvenile referees, bailiffs, court reporters, probation

officers, and other personnel appointed by the court ~~shall~~ serve at the pleasure of the court.

~~(b)~~ **(d)** Any probate commissioner ~~so~~ appointed by the court may be vested by said court with all suitable powers for the handling and management of the probate and guardianship matters of the court, including the fixing of all bonds, the auditing of accounts of estates and guardianships and trusts, acceptance of reports, accounts, and settlements filed in ~~said~~ **the** court, the appointment of personal representatives, guardians, and trustees, the probating of wills, the taking and hearing of evidence on or concerning such matters, or any other probate, guardianship, or trust matters in litigation before ~~such~~ **the** court, the enforcement of court rules and regulations, the making of reports to the court concerning ~~his~~ **the probate commissioner's** doings in the above premises, including the taking and hearing of evidence together with ~~such~~ **the** commissioner's findings and conclusions regarding the same, all of such matters, nevertheless, to be under the final jurisdiction and decision of the judges of ~~said~~ **the** court.

~~(c)~~ **(e)** Any juvenile referee ~~so~~ appointed by the court may be vested by ~~said~~ **the** court with all suitable powers for the handling and management of the juvenile matters of the court, including the fixing of bonds, the taking and hearing of evidence on or concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, the making of reports to the court concerning ~~his~~ **the referee's** doings in the above premises, all of such matters, nevertheless, to be under final jurisdiction and decision of the judges of ~~said~~ **the** court.

~~(d)~~ **(f)** For any and all of the foregoing purposes, any probate commissioner and juvenile referee ~~shall have the power to~~ **may** summon witnesses to testify before the ~~said~~ commissioner and juvenile referee, to administer oaths and take acknowledgments in connection with and in furtherance of ~~said~~ **those** duties and powers.

~~(e)~~ **(g)** The powers of a magistrate appointed under this section include the powers provided in [IC 33-4-7] and the power to enter a final order or judgment in any proceeding involving matters specified in [IC 33-5-2-4] (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

SECTION 406. IC 33-5-5.1-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-8.5] Sec. 15. Each juvenile referee appointed under section ~~8~~ **14** of this chapter, who:

(1) is appointed by the court to serve as a full-time referee; and

(2) does not practice law during ~~his~~ **the referee's** term as referee;

~~shall~~ **is entitled to** receive an annual salary as provided in [IC 33-13-12-8.2].

SECTION 407. IC 33-5-5.1-11 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-11] Sec. 16. ~~(Clerk and Sheriff)~~ The clerk of the Allen circuit court and the sheriff of Allen County shall be the clerk and sheriff ~~respectively,~~ of the **Allen superior** court.

SECTION 408. IC 33-5-5.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-12] Sec. 17. ~~(Clerk and Sheriff: Duties, Liabilities, Fees and Procedure).~~ The clerk and sheriff shall attend ~~said~~ **the Allen superior** court and discharge all the duties pertaining to their respective offices as they are ~~now or may hereafter be~~ required to do by law in the circuit court. ~~and~~ All laws ~~now in force, or which may be enacted,~~ prescribing the duties and liabilities of ~~such~~ **the** officers, and the mode of proceeding against them, or either of them for neglect of official duty, allowing fees and providing for the collection thereof, in the circuit court, ~~shall be held and deemed to~~ extend to the Allen superior court, as far as they apply. In any case in the Allen superior court based upon a violation of a city ordinance where fines or forfeitures, or both, are adjudged against a party, the fines or forfeitures, or both, shall be paid to and collected by the clerk and regularly remitted to the city clerk of the city which issued the ordinance and the city clerk shall disburse the same as is now, or may hereafter be, required by law. Payment of fines for admitted parking violations shall be made to the city clerk of the city which issued the ordinances concerning parking violations.

SECTION 409. IC 33-5-5.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-14] Sec. 18. ~~(Record Books)~~ The clerk, under the direction of the **Allen superior** court, shall provide order books, judgment dockets, execution dockets, fee books, and ~~such~~ other books, papers, and records as ~~may be~~ **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.

SECTION 410. IC 33-5-5.1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-15] Sec. 19. ~~(Single Order Book)~~ The **Allen superior** court shall maintain a single order book for the entire court. ~~which~~ **That** order book may be signed on behalf of the court by any of the judges of ~~said~~ **the** court. ~~and such~~ **The** signature ~~shall be due~~ **constitutes** authentication of the actions of each of the judges in the court.

SECTION 411. IC 33-5-5.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-4] Sec. 20. (a) The **Allen superior** court has the same jurisdiction as the Allen circuit court. Except as provided in subsection (b), the **superior** court has exclusive juvenile jurisdiction in Allen County.

(b) The **Allen superior** court has concurrent jurisdiction with the Allen circuit court concerning paternity actions.

SECTION 412. IC 33-5-5.1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-21] Sec. 21. ~~(Fees)~~ The same fees shall be taxed in ~~said~~ **the Allen superior** court as are ~~now or may hereafter be~~ provided by law to be taxed in the **Allen** circuit court. ~~and said fees,~~ When collected **in the Allen superior court, the fees** shall be disbursed in the same manner as ~~like~~ **similar** fees are disbursed in the **Allen** circuit court.

SECTION 413. IC 33-5-5.1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-16] Sec. 22. ~~(Laws Applicable to Court)~~ All laws of the state ~~of Indiana~~ and rules ~~duly~~ adopted by the supreme court ~~of Indiana now in force or that may hereafter be enacted~~ governing the **Allen** circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court ~~shall be applicable~~ **apply** to and govern the **Allen superior** court. ~~hereby established.~~

SECTION 414. IC 33-5-5.1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-17] Sec. 23. ~~(Jury Commissioners: Selection of Jurors)~~ The clerk of the Allen circuit court and the jury commissioners appointed by the Allen circuit court shall serve as jury commissioners for ~~this~~ **the Allen superior** court and shall be governed in all respects as ~~now or may hereafter be~~ provided for the selection of jurors and the issuing and servicing of process. ~~Provided, That said~~ **However, the** jurors need not serve in any particular order in which they are drawn by the jury commissioners. ~~Provided, further, That any~~ **A** judge of the **superior** court may order the selection and summoning of other jurors for the court ~~whenever the same may be~~ **when** necessary. ~~and they~~ **The jurors** shall serve the entire court and before any judge of the court where their service may be required.

SECTION 415. IC 33-5-5.1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-18] Sec. 24. ~~(Fees of Jurors and Witnesses)~~ Jurors and witnesses in attendance upon the **Allen superior** court shall receive the same fees as are ~~now or may hereafter be~~ provided for by law for jurors and witnesses in the circuit court.

SECTION 416. IC 33-5-5.1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-25] Sec. 25. ~~(Transfer of Cases from Circuit Court)~~ The judge of the **Allen** circuit court may, with the consent of ~~this~~ **the Allen superior** court, transfer any action, cause, or proceeding filed and docketed in the circuit court to ~~this~~ **the superior** court by transferring all original papers and

instruments filed in ~~such~~ **the** action, cause, or proceeding without further transcript thereof to be redocketed and disposed of as if originally filed with ~~this~~ **the Allen superior** court.

SECTION 417. IC 33-5-5.1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-26] Sec. 26. ~~(Transfer of Cases to Circuit Court)~~ Any judge of ~~this~~ **the Allen superior** court may, with the consent of the judge of the **Allen** circuit court, transfer any action, cause, or proceeding filed and docketed in ~~this~~ **the superior** court to the circuit court by transferring all original papers and instruments filed in ~~such~~ **the** action, cause, or proceeding without further transcript thereof to be redocketed and disposed of as if originally filed with the circuit court.

SECTION 418. IC 33-5-5.1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-27] Sec. 27. ~~(Authority of Circuit Judge to Sit in Superior Court)~~ The judge of the Allen circuit court ~~shall be,~~ **may** ~~at his discretion, authorized to~~ sit as a judge of ~~this~~ **the superior** court, with the court's permission, in all matters pending before ~~this~~ **the superior** court, without limitation and without any further order, in the same manner ~~and stead~~ as if ~~he were~~ **the circuit court judge were** a judge of ~~this~~ **the superior** court with all the rights and powers as if ~~he were a duly~~ **the circuit court judge were** appointed judge of ~~this~~ **the superior** court.

SECTION 419. IC 33-5-5.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-28] Sec. 28. ~~(Appeals)~~ Any party may appeal from any order or judgment of the **superior** court in any case where ~~by existing or future laws of this state,~~ an appeal may be had from a similar order or judgment of the circuit court.

SECTION 420. IC 33-5-5.1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-29] Sec. 29. ~~(Process)~~ The process of the Allen **superior** court ~~shall~~ **must** have the seal affixed and be attested, directed, served, and returned, and be in the form as is ~~or may be,~~ provided for process issuing from the circuit court.

SECTION 421. IC 33-5-5.1-21.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-21.1] Sec. 30. (a) The Allen **superior** court shall be governed and operated by a board of judges ~~which is~~ composed of all of the judges of the superior court. Six (6) judges are required for a quorum for conducting business and as a majority for taking action. Every two (2) years the board of judges shall elect a chief judge to carry out such ministerial functions of representation as the board of judges periodically determines by a majority of the board's members.

(b) Matters of administration, budget, expenditures, policy, and

procedure affecting the entire **superior** court shall be determined by a majority of the board of judges. Any such determination ~~shall bind~~ **binds** the entire board of judges and each judge ~~thereof.~~ **of the board.**

(c) One (1) budget covering all the divisions of the **superior** court shall be prepared for the **superior** court and submitted to the county fiscal body. However, each division shall prepare its own budget as a component of the superior court's total budget.

SECTION 422. IC 33-5-5.1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-23] Sec. 31. (a) The court, by rules adopted by the **Allen superior** court, shall divide the work of the court into the following divisions:

(1) A family relations division.

(2) A criminal division (including a standard minor offenses and violations docket under [IC 33-5-2-8]).

(3) A civil division (including a standard small claims docket under [IC 33-5-2-4]).

(b) Cases involving juvenile matters shall be assigned to the family relations division.

(c) Cases involving matters specified in [IC 33-5-2-8] shall be assigned to the criminal division.

(d) Cases involving matters specified in [IC 33-5-2-4] shall be assigned to the small claims docket in the civil division.

(e) The work of each division may be divided further by rules adopted by the court.

(f) Every two (2) years each division of the court shall elect an administrative judge for that division. The administrative judge shall carry out such ministerial, administrative, and assignment functions as are periodically determined by a majority of the judges of that division.

(g) Matters of administration, budget, expenditures, policy, and procedure in each division shall be determined by a majority of the judges of that division.

(h) Disputes within any division concerning administration, budget, expenditures, policy, procedure, and assignments that pertain to the division as a whole or to any individual judge of the division, that for any reason cannot be resolved by a majority of the judges in the division, shall be submitted to the board of judges and determined by a majority of the board of judges.

(i) A resolution approved by a majority of the board of judges that resolves disputes within a division must include at least one (1) of the judges of that division and ~~shall bind~~ **binds** all of the judges of that division.

SECTION 423. IC 33-5-5.1-30.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-30.1] Sec. 32. There is ~~hereby~~ established a judicial nominating commission for the Allen superior court. The board of county commissioners of Allen

County shall provide all facilities, equipment, supplies, and services necessary for the administration of the duties of this commission. The members of the commission ~~shall~~ serve without compensation. However, the board of commissioners shall reimburse members of the commission for actual expenses incurred in performing their duties.

SECTION 424. IC 33-5-5.1-31.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-31.1] Sec. 33. (a) The judicial nominating commission ~~shall consist~~ **consists** of seven (7) members, the majority of whom shall 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. Persons who are admitted to the practice of law and who reside in Allen County shall, ~~pursuant to~~ **under** sections ~~33.1~~ **35** and ~~34.1~~ **36** of this chapter, elect three (3) of their number to serve as members of the commission. The governor shall also appoint to the commission three (3) residents of Allen County who are not admitted to the practice of law. However, ~~no~~ **not** more than two (2) of these appointees may be from the same political party. If the governor fails to appoint any of the nonattorney commission members within the time required under section ~~32.1~~ **[34]** of this chapter, the appointment shall be made by the chief justice of the supreme court.

(b) ~~No~~ **A** member of the commission other than a judge or justice may **not** hold any other salaried public office, and ~~no~~ **a** member may **not** hold an office in a political party or organization. A member of the commission is ineligible for appointment to a judicial office in Allen County while ~~he~~ **the member** is a member of the commission and for three (3) years thereafter. If any member of the commission other than a judge or justice terminates ~~his~~ **the member's** residence in Allen County, ~~he~~ **the member** ~~shall be~~ **is** considered to have resigned from the commission.

SECTION 425. IC 33-5-5.1-32.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-32.1] Sec. 34. (a) The governor shall appoint the three (3) nonattorney members of the commission.

(b) One (1) month ~~prior to~~ **before** the expiration of a term of office of a nonattorney commissioner, the governor shall either reappoint the commissioner or appoint a replacement. All appointments shall be certified to the secretary of state, the clerk of the supreme court, and the clerk of Allen superior court within ten (10) days after the appointment.

(c) After their initial terms, the governor shall appoint each nonattorney commissioner 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 governor in writing of that fact. Vacancies in the office of

nonattorney commissioners shall be filled by appointment of the governor within sixty (60) days after ~~he~~ **the governor** has notice of the vacancy. The nonattorney commissioner appointed shall serve during the unexpired term of the member whose vacancy ~~he~~ **the nonattorney commissioner** has filled.

SECTION 426. IC 33-5-5.1-33.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-33.1] Sec. 35. (a) Persons who are admitted to the practice of law and who reside in Allen County (referred to as "attorney electors") shall elect three (3) of their number to the commission. The term of office of each elected attorney member ~~shall be~~ **is** four (4) years, commencing on the first day of October following his election. The election day is the first Tuesday in September, 1983, and every four (4) years thereafter. During the month ~~prior to~~ **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 shall be filled for the unexpired term by a special election.

SECTION 427. IC 33-5-5.1-34.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-34.1] Sec. 36. The attorney members of the commission shall be elected by the following process:

~~(a)~~ **(1)** The clerk of the superior court shall, at least ninety (90) days ~~prior to~~ **before** the date of election, notify all attorneys in Allen County of the election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days ~~prior to~~ **before** the election.

~~(b)~~ **(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 an attorney elector in the office of the clerk at least sixty (60) days ~~prior to~~ **before** the election.

~~(c)~~ **(3)** The clerk shall prepare and print ballots containing the names and residence addresses of all attorney nominees whose written nominations, petitions, and written statements of consent have been received sixty (60) days ~~prior to~~ **before** the election.

~~(1)~~ **(A)** The ballot ~~shall~~ **must** read:

"ALLEN SUPERIOR COURT
NOMINATING COMMISSION BALLOT

To be cast by individuals residing in Allen County and admitted to the practice of law in Indiana. Vote for not more than three (3) of the following candidates for terms 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 Allen Superior Court not later than _____.
DESTROY BALLOT IF NOT USED".

~~(2)~~ **(B)** The three (3) nominees receiving the most votes ~~shall be~~ **are** elected.

~~(d)~~ **(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 the ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, that the attorney elector resides in Allen County, and that the attorney elector voted the ballot returned. A ballot not accompanied by the signed certificate of the voter may not be counted.

~~(e)~~ **(5)** A separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope may not be opened until the counting of the ballots.

~~(f)~~ **(6)** The clerk of the superior court shall mail a ballot and its accompanying material to all qualified electors at least two (2) weeks before the date of election.

~~(g)~~ **(7)** Upon receiving the completed ballots and the accompanying certificates, 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.

~~(h)~~ **(8)** The clerk, with the assistance of the Allen County election board, shall open and canvass all ballots after 4 p.m. on the day of the election in the office of the clerk of Allen superior court. ~~No ballots~~ **A ballot** received after 4 p.m. ~~are to~~ **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 in their package. These, along with the certificates, shall be retained in the clerk's office for ~~a period of~~ six (6) months, and the clerk may not permit anyone to inspect them except upon an order of the court of appeals.

~~(i)~~ **(9)** If two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give that nominee a plurality, the canvassers shall resolve the tie by lot and the winner of the lot ~~shall be deemed~~ **is considered** to have been elected.

SECTION 428. IC 33-5-5.1-35.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-35.1] Sec. 37.

After the attorney members of the commission have been elected, and after the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state, the clerk of the supreme court, and the clerk of Allen superior court, the superior court clerk shall notify the members of the commission of their election or appointment.

SECTION 429. IC 33-5-5.1-36.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-36.11] Sec. 38. A member of the commission shall serve until ~~his~~ **the member's** successor is appointed or elected. An attorney commissioner or nonattorney commissioner is not eligible for more than two (2) successive reelections or reappointments.

SECTION 430. IC 33-5-5.1-37.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-37.1] Sec. 39. (a) When a judge of the superior court dies, resigns, is removed from office, or is for any reason ineligible to continue or incapable of continuing in office until the end of ~~his~~ **the judge's** term in office, a judge in another division may within thirty (30) days after the vacancy occurs transfer to the vacant position for the remainder of the transferring judge's term. A judge who has made one (1) transfer is ineligible to make any other transfers. If more than one (1) judge desires to transfer, the most senior of these judges is entitled to transfer. After a transfer, or the thirty (30) day period if no transfer is made, the commission shall meet to nominate three (3) candidates to fill the unexpired term of the vacancy caused by the transferring judge or the original vacancy if no transfer is made.

(b) The clerk shall promptly notify the members of the commission of a vacancy that the commission must fill under subsection (a), and the chairman shall call a meeting of the commission within ten (10) days following that notice. The commission shall submit its nominations of three (3) candidates for the vacancy and shall certify them to the governor ~~no~~ **not** later than sixty (60) days after the vacancy occurred. When it is known that a vacancy will occur at a definite future date within the term of the governor then serving, the clerk shall notify the chairman and each member of the commission immediately, and the chairman shall call a meeting of the commission within ten (10) days following that notice. The commission may thereafter submit its nominations of three (3) candidates for each impending vacancy and shall certify them to the governor.

(c) Meetings of the commission shall be called by its chairman, or, if ~~he~~ **the chairman** fails to call a necessary meeting, upon the call of any four (4) members of the commission. Written notice of a meeting shall be given by mail to each member of the commission at least five (5) days before the meeting, unless the commission at its previous meeting designated the time and place of its next meeting.

(d) Meetings of the commission ~~shall~~ **may** be held in the Allen County courthouse or in another public building in Allen County designated by the commission.

(e) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members attending a meeting. The commission may adopt rules for the conduct of its proceedings and the discharge of its duties.

SECTION 431. IC 33-5-5.1-38.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-38.1] Sec. 40. In selecting the three (3) nominees to be submitted to the governor, the commission shall comply with the following requirements:

~~(a)~~ **(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 Allen superior court, a person must meet the qualifications listed in section ~~29.3~~ **???** of this chapter.

~~(b)~~ **(2)** As an aid in choosing the three (3) most qualified candidates, the commission shall in writing evaluate each eligible individual it considers on the following factors:

~~(1)~~ **(A)** Law school record, including any academic honors and achievements.

~~(2)~~ **(B)** Contributions to scholarly journals and publications, legislative draftings, and legal briefs.

~~(3)~~ **(C)** Activities in public service, including:

~~(A)~~ **(i)** writings and speeches concerning public or civic affairs which are on public record, including campaign speeches or writing, letters to newspapers, and testimony before public agencies;

~~(B)~~ **(ii)** government service;

~~(C)~~ **(iii)** efforts and achievements in improving the administration of justice; and

~~(D)~~ **(iv)** other conduct relating to his profession.

~~(4)~~ **(D)** Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

~~(5)~~ **(E)** Probable judicial temperament.

~~(6)~~ **(F)** Physical condition, including age, stamina, and possible habitual intemperance.

~~(7)~~ **(G)** Personality traits, including the exercise of sound judgment, ability to compromise and conciliate, patience, decisiveness, and dedication.

~~(8)~~ **(H)** Membership on boards of directors, financial interest, and any other consideration which might create conflict of interest with a judicial office.

~~(9)~~ **(I)** Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

~~(c)~~ **(3)** An individual may not be evaluated before ~~he~~ **the individual** states in writing that ~~he~~ **the individual** desires to hold a judicial office that is or will be created by a vacancy.

~~(d)~~ **(4)** The political affiliations of a candidate may not be considered.

SECTION 432. IC 33-5-5.1-39.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-39.1] Sec. 41. The commission shall submit to the governor, with its list of nominees, its written evaluation of the qualifications of each nominee.

SECTION 433. IC 33-5-5.1-40.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-40.1] Sec. 42. After the commission has nominated and submitted to the governor the names of three (3) nominees, any name may be withdrawn for a cause considered by the commission to substantially affect the nominee's qualifications to hold office, and another name or names may be substituted at any time before the appointment is made to fill the vacancy. If a nominee dies or requests in writing that ~~his~~ **the nominee's** name be withdrawn, the commission shall nominate another person to replace ~~him.~~ **the nominee.** Whenever ~~there exists at the same time~~ 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. Before an appointment is made, the commission may withdraw the lists of nominations and change the names of any persons nominated from one (1) list to another, or may substitute a new name for any of those previously nominated.

SECTION 434. IC 33-5-5.1-41.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-41.1] Sec. 43. (a) A vacancy created by a superior court judge's departure from office before the expiration of ~~his~~ **the judge's** term in office that is not filled by a transfer under section ~~37.1(a)~~ **[39]** of this chapter shall be filled by appointment of the governor from the list of nominees. If the governor fails to make an appointment from the list within sixty (60) days after it is presented to ~~him,~~ **the governor,** the appointment shall be made by the chief justice of the supreme court from the same list.

(b) The governor shall make all appointments to the Allen superior court without regard to the political affiliation of any of the nominees, and shall consider only those qualifications included in section ~~38.1~~ **[40]** of this chapter.

SECTION 435. IC 33-5-5.1-42.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-42.1] Sec. 44. An appointment to the Allen superior court for the remainder of a

departing judge's term in office ~~shall take~~ **takes** effect immediately if a vacancy exists at the date of the appointment. The appointment ~~shall take~~ **takes** effect on the date the vacancy is created if the vacancy does not yet exist.

SECTION 436. IC 33-5-5.1-43.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-5.1-43.1] Sec. 45. A judge appointed under section ~~41.1~~ **[43]** of this chapter ~~shall serve~~ **serves** during the unexpired part of ~~his~~ **the judge's** predecessor's term in office.

Chapter 3. Bartholomew County

SECTION 437. IC 33-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-3] Sec. 1. ~~The county of~~ Bartholomew ~~shall be and constitute~~ **County constitutes** the ninth judicial circuit. ~~of the State of Indiana.~~

SECTION 438. IC 33-5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8-1] Sec. 2. (a) There ~~is hereby~~ **are** created ~~a superior court in and for the county of~~ **two (2) courts of record to be known as** Bartholomew ~~Indiana which shall consist of one (1) judge, who shall hold office for six (6) years, beginning on the first day of January after election and ending December 31 following the election of the judge's successor. Every six (6) years, the voters of Bartholomew County shall elect at the general election a judge for the superior court.~~

~~(b) An additional court of record is established to be known as the Bartholomew superior court No. 2. The Bartholomew superior court No. 2 has one (1) judge, who shall be elected at the general election every six (6) years in Bartholomew County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.~~

~~(c) To be eligible to hold office as judge of the court, a person must:~~

~~(1) be a resident of Bartholomew County;~~

~~(2) be under seventy (70) years of age at the time of taking office; and~~

~~(3) be admitted to the practice of law in Indiana.~~

superior court No. 1 and Bartholomew superior court No. 2.

(b) Each court is a standard superior court as described in IC 33-29-1.

(c) Bartholomew County comprises the judicial district of each court.

SECTION 439. IC 33-5-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8-3] Sec. 3. ~~(a)~~ The clerk of the Bartholomew circuit court ~~shall be~~ **is** the clerk of the Bartholomew superior courts, and the sheriff of Bartholomew County ~~shall be~~ **is** the sheriff of the Bartholomew superior courts. The clerk and sheriff shall attend the courts and discharge all the duties

pertaining to their respective offices as they are ~~now or may hereafter be~~ required to do by law with reference to the Bartholomew circuit court.

~~(b) The judges of the courts shall appoint a bailiff and an official court reporter for each court to serve as such during the pleasure of the court; and the judge shall fix their per diem or salary within the limits and in the manner as may be provided by law concerning bailiffs and official court reporters; and the same shall be paid monthly out of the treasury of Bartholomew County in the manner provided by law. The salary of judge of each court shall be the same as is provided by law for judges of superior courts.~~

SECTION 440. IC 33-5-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8-4] Sec. 4. ~~(a) The courts~~ **Each Bartholomew superior court has one (1) judge who** shall hold sessions in the Bartholomew County courthouse in ~~the city of~~ Columbus. ~~Indiana. and the board of commissioners of the county of Bartholomew shall provide and maintain in the courthouse a suitable and convenient courtroom for the holding of each court; together with a suitable and convenient jury room; and offices for the presiding judge and the official court reporter and shall provide all necessary furniture and equipment for the rooms and offices and all necessary dockets, books, and records for the courts.~~

~~(b) The jury commissioners appointed by the judge of the Bartholomew circuit court shall serve as the jury commissioners for the superior courts. Juries shall be selected in the same manner as juries for the Bartholomew circuit court. The grand jury selected for the Bartholomew circuit court shall also serve as the grand jury for the superior courts as may be necessary.~~

SECTION 441. IC 33-5-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8-6] Sec. 5. **(a)** The judges of the Bartholomew superior courts: ~~shall have full power and authority to~~

(1) may make and adopt rules for conducting the business of the Bartholomew superior courts ~~and~~ not repugnant to the laws of the state ~~of Indiana,~~ or rules of the supreme court; ~~of the state of Indiana,~~ and ~~shall~~

(2) have all powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and ~~to enforce~~ **enforcement of** its orders.

(b) In addition to the powers described in IC 33-29-1-4, the judges of each **superior** court ~~shall have full authority to administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and to~~ **may:**

(1) give all necessary certificates for the authentication of records and proceedings of each court; and ~~to~~

(2) make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

SECTION 442. IC 33-5-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8-10] Sec. 6. (a) The judge of Bartholomew superior court No. 2 may appoint one (1) full-time magistrate to serve Bartholomew superior court No. 2.

(b) The magistrate continues in office until removed by the judge of Bartholomew superior court No. 2.

SECTION 443. IC 33-5-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8-5] Sec. 7. The Bartholomew superior courts have concurrent jurisdiction, both original and appellate, with the Bartholomew circuit court in all:

(1) civil actions and proceedings at law and in equity; and ~~in all~~

(2) criminal and probate matters, actions, and proceedings of which the Bartholomew circuit court has jurisdiction.

However, the Bartholomew circuit court ~~shall have~~ **has** exclusive jurisdiction in all juvenile matters, actions, and proceedings.

SECTION 444. IC 33-5-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8-9] Sec. 8. The Bartholomew superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 4. Benton County

SECTION 445. IC 33-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-4] Sec. 1. (a) ~~The county of~~ Benton ~~shall constitute~~ **County constitutes** the seventy-sixth judicial circuit.

(b) The Benton circuit court has a standard small claims and misdemeanor division.

Chapter 5. Blackford County

SECTION 446. IC 33-4-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-5] Sec. 1. ~~The county of~~ Blackford ~~shall be and constitute~~ **County constitutes** the seventy-first judicial circuit. ~~of the state of Indiana.~~

SECTION 447. IC 33-5-8.5-1, AS ADDED BY P.L.45-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8.5-1] Sec. 2. **(a)** There is established a court of record to be known as the Blackford superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Blackford Superior Court, Blackford County, Indiana".~~

(b) The Blackford superior court is a standard superior court as described in IC 33-29-1.

(c) Blackford County comprises the judicial district of the court.

SECTION 448. IC 33-5-8.5-7, AS ADDED BY P.L.45-2000,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8.5-7] Sec. 3. The **Blackford superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Blackford County courthouse in Hartford City ~~Indiana,~~ or in ~~such~~ **any** other places in the county as the Blackford county executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Blackford County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 449. IC 33-5-8.5-5, AS ADDED BY P.L.45-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8.5-5] Sec. 4. ~~The judge of the court shall appoint~~ **(a) In addition to** a bailiff and an official court reporter for the court **appointed under IC 33-29-1-5,** the judge **of the Blackford superior court** may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. ~~Their salaries~~ **The salary of a referee, commissioner, or other person:**

(1) shall be fixed in the same manner as the salaries of the personnel for the Blackford circuit court; **and**

~~Their salaries~~ **(2)** shall be paid monthly out of the treasury of Blackford County as provided by law.

(b) Personnel appointed under this section **and IC 33-29-1-5** continue in office until removed by the judge of the court.

SECTION 450. IC 33-5-8.5-3, AS ADDED BY P.L.45-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8.5-3] Sec. 5. (a) Except as provided in subsection (b), the **Blackford superior** court has the same jurisdiction as the Blackford circuit court.

(b) The Blackford circuit court has exclusive juvenile jurisdiction.

SECTION 451. IC 33-5-8.5-11, AS ADDED BY P.L.45-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-8.5-11] Sec. 6. The **Blackford superior** court has a standard small claims and misdemeanor division.

Chapter 6. Boone County

SECTION 452. IC 33-4-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-6] Sec. 1. ~~The county of~~ Boone ~~shall constitute~~ **County constitutes** the twentieth Judicial Circuit.

SECTION 453. IC 33-5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9-1] Sec. 2. (a) There ~~is~~ **are** established ~~a~~ **two (2) courts of record to be known as Boone** superior court No. 1 ~~in the county of Boone, Indiana, which shall~~

~~consist of one (1) judge who shall hold his office for a term of six (6) years, beginning on the first day of January after his election, and until his successor is elected and qualified. Every six (6) years, the voters of Boone County shall elect at the general election a judge for the superior court.~~

~~(b) An additional court is established to be known as the~~ **and** Boone superior court No. 2. ~~The Boone superior court No. 2 has one (1) judge, who is elected at the general election every six (6) years in Boone County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.~~

~~(c) To be eligible to hold office as a judge of a Boone superior court, a person must be:~~

~~(1) a resident of Boone County;~~

~~(2) under seventy (70) years of age at the time of taking office; and~~

~~(3) admitted to the practice of law in Indiana.~~

SECTION 454. IC 33-5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9-2] (b) ~~The superior courts shall be known as the "Boone superior court No. 1" and the "Boone superior court No. 2". The county of~~ **Except as otherwise provided in this chapter, both superior courts are standard superior courts as described in IC 33-29-1.**

(c) Boone ~~shall constitute~~ **County constitutes** the judicial district of ~~the courts. The courts shall be courts of record and general jurisdiction, and shall each have a seal containing the words "Boone Superior Court No. 1 of Boone County, Indiana" and "Boone Superior Court No. 2 of Boone County, Indiana", respectively.~~ **each superior court.**

SECTION 455. IC 33-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9-4] Sec. 3. ~~The~~ **Each** Boone superior ~~courts~~ **court has one (1) judge who** shall hold session in the Boone County courthouse in the city of Lebanon. ~~Indiana. The board of county commissioners of Boone County shall provide and maintain in the courthouse suitable and convenient courtrooms for the holding of each court, with suitable and convenient jury rooms and offices for the judges and the official court reporters. The county council shall appropriate sufficient funds for the courts.~~

SECTION 456. IC 33-5-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9-7] Sec. 4. Notwithstanding any statute applying generally to superior or circuit courts, ~~no~~ **an** action, **a** cause, **a** case, **a** proceeding, or **a** matter filed in the Boone circuit court or one (1) of the **Boone superior** courts established by this chapter ~~shall~~ **may not** be transferred by ~~the~~ **a** court to one (1) of the other courts except on written stipulation of all the parties to the cause, other than parties defaulted. ~~which~~ **The** stipulation

shall be filed in ~~such~~ **the** cause. [QUERY: Still needed or covered by court rules?]

SECTION 457. IC 33-5-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9-8] Sec. 5. (a) ~~Whenever it shall appear that~~ **If** either **Boone** superior court ~~has no~~ **does not have** jurisdiction of any action or proceeding filed ~~therein,~~ **in the superior court** or ~~it shall appear that~~ the Boone circuit court has ~~no~~ **does not have** jurisdiction of any action or proceeding filed ~~therein,~~ **in the circuit court** but that because of this chapter the jurisdiction is in one (1) of the other courts, ~~such~~ **the** action or proceeding ~~shall~~ **does** not abate, but ~~such~~ **the** court in which the ~~same~~ **action or proceeding** was filed shall, without further proceedings, certify the cause and the papers ~~therein~~ to the proper court where the ~~same~~ **cause** shall stand for further proceedings and trial, as if originally filed ~~therein,~~ **the proper court,** and the costs ~~therein~~ shall abide the result of the cause or proceedings as if it had been commenced in the court to which transferred. ~~Such~~ **The** transfer shall be made by order entered on the order book of the court transferring ~~such~~ **the** action or proceeding and shall be docketed in the court to which transferred without a transcript.

(b) If any action, cause, case, proceeding, or matter transferred under this section ~~shall be~~ **is** taken on change of venue to the court of another county, or if ~~such~~ **the** cause ~~be~~ **is** appealed to the court of appeals or supreme court ~~of Indiana~~ from any order, ruling, judgment, or decree, ~~therein made, then~~ the clerk on request or praecipe of the party taking ~~such~~ **the** change of venue or appeal shall make a **certified** transcript of the proceedings in each court, ~~certify to the same,~~ and ~~such~~ **the** transcript ~~shall have~~ **has** the same force and effect and ~~give to~~ **gives** the court to which it is taken on change of venue or appeal the same jurisdiction as though ~~such~~ **the** transcript originally had been made when ~~such~~ **the** actions, causes, cases, proceedings, and matters were transferred from one **(1)** court to the other. [QUERY: Still needed or covered by court rules?]

SECTION 458. IC 33-5-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The **Boone** superior courts shall, during the last sixty (60) days in each calendar year, each appoint for the next calendar year two (2) persons who are residents of Boone County as jury commissioners, and the law with reference to jury commissioners appointed by the circuit court ~~shall~~ fully ~~govern~~ **governs** the jury commissioners as appointed by the superior courts in all things, conditions, and qualifications. The jury commissioners shall prepare and draw the petit jury for the superior courts as ~~the law directs the same to be~~ **is** done by the jury commissioners for the circuit court. The superior courts shall be governed by the law for petit jurors in the circuit court in the making of appointments of the jury commissioners,

and the clerk in issuing process for the jury, and the sheriff in serving the same. Each superior court may order on what day jurors shall be summoned to attend the court, and the judge of that court may order the selection and summoning of other jurors for the court ~~whenever the same may be~~ **when** necessary. If ~~at any time~~ a jury ~~shall for any reason be~~ **is** not drawn, ~~then~~ the clerk of the court shall select from among the properly qualified residents of the county a jury for the term, who shall be summoned and considered in all things as the regular panel of that court.

SECTION 459. IC 33-5-9-5, AS AMENDED BY P.L.217-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9-5] Sec. 7. (a) Subject to this section, the **Boone** superior courts have the same jurisdiction as the Boone circuit court.

(b) Only the circuit court has juvenile jurisdiction.

(c) Except as provided in IC 31-30-1-1, only ~~the~~ **Boone** superior court No. 1 has probate jurisdiction.

SECTION 460. IC 33-5-9-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The Boone superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 7. Brown County

SECTION 461. IC 33-4-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-7] Sec. 1. (a) ~~The county of~~ Brown ~~shall constitute~~ **County constitutes** the eighty-eighth judicial circuit. ~~of the State of Indiana.~~

(b) The Brown circuit court has a standard small claims and misdemeanor division.

(c) The judge of the Brown circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

Chapter 8. Carroll County

SECTION 462. IC 33-4-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-8] Sec. 1. (a) ~~The county of~~ Carroll ~~shall be and constitute~~ **County constitutes** the seventy-fourth judicial circuit. ~~of the State of Indiana.~~

(b) The Carroll circuit court has a standard small claims and misdemeanor division.

SECTION 10. IC 33-5-9.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9.5-1] Sec. 2. **(a)** There is established a court of record to be known as the Carroll superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Carroll Superior Court, Carroll County, Indiana".~~

(b) The Carroll superior court is a standard superior court as described in IC 33-29-1.

(c) Carroll County comprises the judicial district of the **superior**

court.

SECTION 463. IC 33-5-9.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9.5-7] Sec. 3. The **Carroll superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Carroll County courthouse in Delphi ~~Indiana,~~ or in ~~such~~ other places in the county as the Carroll County executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Carroll County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 464. IC 33-5-9.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9.5-3] Sec. 4. The **Carroll superior** court has the same jurisdiction as the Carroll circuit court.

SECTION 465. IC 33-5-9.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9.5-11] Sec. 5. The **Carroll superior** court has a standard small claims and misdemeanor division.

Chapter 9. Cass County

SECTION 466. IC 33-4-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-9] Sec. 1. **Cass County constitutes** the twenty-ninth judicial circuit. ~~of the State of Indiana shall consist of the county of Cass.~~

SECTION 467. IC 33-5-9.7-1, AS AMENDED BY P.L.196-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9.7-1] Sec. 2. **(a)** There are established two (2) courts of record to be known as Cass superior court No. 1 and Cass superior court No. 2. ~~(referred to as a "court" in this chapter).~~

~~Each court may have a seal containing the words "Cass Superior Court (insert No. 1 or No. 2), Cass County, Indiana".~~

(b) Each Cass superior court is a standard superior court as described in IC 33-29-1.

(c) Cass County comprises the judicial district of each **superior** court.

SECTION 468. IC 33-5-9.7-11, AS AMENDED BY P.L.196-1999, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9.7-11] Sec. 3. Each **Cass superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Cass County courthouse in Logansport ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Cass County may provide. ~~The board of county commissioners shall provide and maintain suitable courtrooms and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Cass County shall appropriate sufficient funds for the provision and maintenance of~~

~~such rooms and facilities.~~

SECTION 469. IC 33-5-9.7-8, AS AMENDED BY P.L.196-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9.7-8] Sec. 4. The clerk of the Cass circuit court shall serve as the clerk of each **Cass superior** court, and the sheriff of Cass County shall serve as the sheriff of each **Cass superior** court. They shall attend the courts and perform the same duties relating to their offices as they are required to do with respect to the Cass circuit court.

SECTION 470. IC 33-5-9.7-3, AS AMENDED BY P.L.196-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9.7-3] Sec. 5. (a) Cass superior court No. 1 has the same jurisdiction as the Cass circuit court, except that only the circuit court has juvenile jurisdiction.

(b) Cass superior court No. 2 has the same jurisdiction as Cass superior court No. 1.

SECTION 471. IC 33-5-9.7-16, AS AMENDED BY P.L.196-1999, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-9.7-16] Sec. 6. Each **Cass** superior court has a standard small claims and misdemeanor division.

Chapter 10. Clark County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.** [QUERY: These courts can probably be made standard superior courts.]

SECTION 472. IC 33-4-1-10, AS AMENDED BY P.L.196-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-10] Sec. 2. (a) ~~The county of~~ Clark ~~shall constitute~~ **County constitutes** the fourth judicial circuit. ~~of the State of Indiana.~~

(b) The judges of the Clark circuit court and Clark superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the Clark circuit and superior courts.

SECTION 473. IC 33-5-10-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-1.5] Sec. 3. (a) There are established three (3) superior courts ~~in and for the county of~~ Clark ~~Indiana,~~ **County,** each of which ~~shall consist~~ **consists** of one (1) judge, who shall hold the judge's office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified.

(b) To be eligible to hold office as a judge of Clark superior court, a person must be:

(1) a resident of Clark County; and

(2) admitted to the bar of Indiana.

SECTION 474. IC 33-5-10-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-2.5] Sec. 4. (a) The superior courts shall be known as Clark superior court No. 1, Clark superior court No. 2, and Clark superior court No. 3, and the county of Clark shall constitute the judicial district of each court.

(b) Each **superior** court shall be a court of record having the same jurisdiction as the circuit court. A judge of the superior court has the same powers relating to the conduct of business of the court as the judge of the circuit court.

(c) Each court shall have a seal containing the words "Clark Superior Court _____ (insert "No. 1", "No. 2", or "No. 3") of Clark County, Indiana".

(d) Clark superior court No. 3 has a standard small claims and misdemeanor docket.

SECTION 475. IC 33-5-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-10] Sec. 5. Each judge of a superior court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of ~~his~~ **the judge's** court, not repugnant to ~~the laws of this state.~~ **Indiana law.**

SECTION 476. IC 33-5-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-6] Sec. 6. Each judge of a superior court ~~shall have the~~ **has the** same power to grant restraining orders, injunctions and writs of ne exeat, to issue writs of habeas corpus and of mandate and prohibition, to appoint receivers, master 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 ~~thereof.~~ **of circuit courts.**

SECTION 477. IC 33-5-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-7] Sec. 7. Each superior court of Clark County shall hold its sessions at the courthouse of the county, or at ~~such~~ other convenient ~~place~~ **places** as the court ~~shall designate~~ **designates** in ~~such~~ **the** county. ~~and~~ The county commissioners shall provide suitable quarters for each court.

SECTION 478. IC 33-5-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-8] ~~Sec. 7. There shall be one (1) judge for each of the courts, who shall be elected by the legal voters of Clark County every six (6) years at the general election. His term of office begins on the first day of January and continues for six (6) years and until his successor is elected and qualified. The judge of each superior court shall be commissioned by the governor in the same manner as judges of the circuit court. All vacancies occurring in the office of judge of the superior court shall be filled by appointments by the governor in the same manner as vacancies in the office of judge of the circuit court.~~ [QUERY:

Redundant?]

SECTION 479. IC 33-5-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-9] ~~Sec. 9. The judge of each superior court of Clark County shall receive the same salary as is now paid the judge of the circuit court of the county, which salary shall be paid at the time and in the same manner as the judge of the Clark circuit court is paid.~~

SECTION 480. IC 33-5-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-13] Sec. 8. The clerk, under the direction of a judge of the superior court, shall provide order-books, judgment dockets, execution dockets, fee-books, and such other books, papers and records as ~~may be~~ **are** necessary for that court, and all books, papers, and proceedings of that court shall be kept distinct and separate from those of other courts, and the records of all civil cases separate and apart from the records of juvenile matters.

SECTION 481. IC 33-5-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-14] Sec. 9. Each judge of a superior court shall appoint a bailiff for ~~his~~ **the** court, whose salary shall be fixed and paid as ~~now~~ provided by law.

SECTION 482. IC 33-5-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-15] Sec. 10. Each judge of a superior court shall appoint a court reporter, whose duties, salary, and term, shall be regulated in the same manner as the court reporter of circuit courts.

SECTION 483. IC 33-5-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-16] Sec. 11. All laws governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court ~~shall be~~ **are** applicable to and govern the courts established under this chapter. However, a superior court ~~is~~ **may** not ~~authorized to~~ appoint jury commissioners or to call the grand jury.

SECTION 484. IC 33-5-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-18] ~~Sec. 18. Any party may appeal to the supreme court or court of appeals from any order or judgment of a superior court in any case where, by the laws of this state, an appeal may be had from a similar order or judgment of the circuit court. The appeal shall be governed by the law governing appeals from the circuit court to the court of appeals and supreme court.~~ [QUERY: Necessary?]

SECTION 485. IC 33-5-10-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-20] Sec. 12. The process of each superior court ~~shall~~ **must** have the seal affixed and be

attested, directed, served, and returned, and be in form as is provided for process issuing from the circuit court.

SECTION 486. IC 33-5-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-21] Sec. 13. Whenever an affidavit for a change of venue is filed in a superior court, for any of the causes embraced in IC 34-35-1-1(1), IC 34-35-1-1(2), IC 34-35-1-1(6), or IC 34-35-1-1(7), ~~some~~ **a** judge of a circuit court or superior court or a competent attorney-at-law, shall be called to hear and determine the same as provided by law for changes of venue in causes pending in the circuit court, or ~~said~~ **the** cause may be certified to the Clark circuit court or a Clark superior court, in the discretion of ~~such~~ **the** judge of the superior court, and the original papers shall be transferred to the court, and ~~no~~ **a** transcript ~~shall be~~ **is not** necessary, and the circuit court ~~shall have~~ **has** jurisdiction to hear and determine the cause and render judgment. ~~therein, and~~ If the cause alleged in the affidavit is embraced in IC 34-35-1-1(3), IC 34-35-1-1(4), and IC 34-35-1-1(5), ~~then~~ the change shall be granted, and the cause directed to the circuit or superior court of ~~some other~~ **another** county, as provided in cases of changes of venue from the circuit court, and the court to which the case is sent ~~shall have~~ **has** jurisdiction to hear and determine the cause and render judgment. ~~therein.~~

SECTION 487. IC 33-5-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-22] Sec. 14. On the third Monday of each January, the clerk of each superior court and jury commissioners appointed by the judge of the circuit court of the county as provided by law, shall proceed to select a petit jury, in manner as is provided by law, to serve each superior court for that calendar year, and the officers in selecting, and the clerk, in issuing process for, the jury, and the sheriff in serving the same, shall in all things be governed by the rules and regulations prescribed for the selection of petit jurors in the circuit court. However, a superior court may order on what day the jurors shall be summoned to attend ~~his~~ **that** court. The judge of a superior court may order the selecting and summoning of other jurors for the court whenever the same may be necessary.

SECTION 488. IC 33-5-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-24] Sec. 15. (a) The judge of the Clark circuit court may, with the consent of a judge of the superior court, transfer any action or proceeding from the circuit court to that superior court. The judge of a superior court may, with the consent of the judge of the circuit court, transfer any action or proceeding from that superior court to the circuit court. The judge of a superior court may, with the consent of the judge of the other superior court, transfer any action or proceeding from that superior court to the other superior court.

(b) The judge of the Clark circuit court may, with the consent of the judge of the superior court, sit as a judge of that superior court in any matter, as if ~~he~~ **the judge** were an elected judge of that superior court. The judge of a superior court may, with consent of the judge of the circuit court, sit as a judge of the circuit court as if ~~he~~ **the judge** were an elected judge of the circuit court. The judge of a superior court may, with the consent of the judge of the other superior court, sit as judge of the other superior court as if ~~he~~ **the judge** were the elected judge of that superior court.

SECTION 489. IC 33-5-10-25, AS ADDED BY P.L.196-1999, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10-25] ~~Sec. 25. (a) The judges of the Clark circuit court and Clark superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.~~

~~(b) The magistrate continues in office until removed by the judges of the Clark circuit and superior courts.~~

Chapter 11. Clay County

SECTION 490. IC 33-4-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-11] Sec. 1. Clay County ~~shall constitute~~ **constitutes** the ~~13th~~ **thirteenth** judicial circuit.

SECTION 491. IC 33-5-10.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.5-1] Sec. 2. There is established a court of record to be known as the Clay superior court. ~~(referred to as "the court" in this chapter). The court may have a seal containing the words "Clay Superior Court, Clay County, Indiana".~~

(b) The Clay superior court is a standard superior court as described in IC 33-29-1.

(c) Clay County comprises the judicial district of the **superior** court.

SECTION 492. IC 33-5-10.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.5-11] Sec. 3. The **Clay superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Clay County courthouse in Brazil ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Clay County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Clay County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities necessary for the efficient operation of the court.~~

SECTION 493. IC 33-5-10.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.5-16] Sec. 4. The judges of the **Clay** superior **court** and **Clay** circuit ~~courts of Clay County~~ **court** may jointly, in accordance with the Indiana Rules of Trial Procedure, establish local rules for governing their courts,

including rules for distribution of cases over which the judges have concurrent jurisdiction.

SECTION 494. IC 33-5-10.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.5-3] Sec. 5. The **Clay superior** court has the same jurisdiction as the Clay circuit court, except that only the circuit court has juvenile and probate jurisdiction.

SECTION 495. IC 33-5-10.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.5-17] Sec. 6. The Clay superior court has a standard small claims and misdemeanor division.

Chapter 12. Clinton County

SECTION 496. IC 33-4-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-12] Sec. 1. ~~The county of~~ Clinton ~~shall constitute~~ **County constitutes** the forty-fifth judicial circuit.

SECTION 497. IC 33-5-10.3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.3-1] Sec. 2. **(a)** There is established a court of record to be known as the Clinton superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Clinton Superior Court, Clinton County, Indiana".~~

(b) The Clinton superior court is a standard superior court as described in IC 33-29-1.

(c) Clinton County comprises the judicial district of the **superior** court.

SECTION 498. IC 33-5-10.3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.3-7] Sec. 3. The **Clinton superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Clinton County courthouse in Frankfort ~~Indiana,~~ or in ~~such~~ other places in the county as the Clinton County executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Clinton County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 499. IC 33-5-10.3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.3-3] Sec. 4. The **Clinton superior** court has the same jurisdiction as the Clinton circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 500. IC 33-5-10.3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.3-11] Sec. 5. The **Clinton superior** court has a standard small claims and misdemeanor division.

Chapter 13. Crawford County

SECTION 501. IC 33-4-1-13 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-13] Sec. 1. (a) ~~The county of~~ Crawford **County** constitutes the seventy-seventh judicial circuit.

(b) The Crawford circuit court has a standard small claims and misdemeanor division.

Chapter 14. Daviess County

SECTION 502. IC 33-4-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-14] Sec. 1. ~~The county of~~ Daviess ~~shall be and constitute~~ **County constitutes** the forty-ninth judicial circuit. ~~of the State of Indiana.~~

SECTION 503. IC 33-5-10.6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.6-1] Sec. 2. **(a)** There is established a court of record to be known as the Daviess superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Daviess Superior Court, Daviess County, Indiana".~~

(b) The Daviess superior court is a standard superior court as described in IC 33-29-1.

(c) Daviess County comprises the judicial district of the **superior** court.

SECTION 504. IC 33-5-10.6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.6-7] Sec. 3. The **Daviess superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Daviess County courthouse in Washington ~~Indiana,~~ or in ~~such~~ other places in the county as the Daviess county executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Daviess County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 505. IC 33-5-10.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.6-3] Sec. 4. The **Daviess superior** court has the same jurisdiction as the Daviess circuit court.

SECTION 506. IC 33-5-10.6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.6-11] Sec. 5. The **Daviess superior** court has a standard small claims and misdemeanor division.

Chapter 15. Dearborn County

SECTION 507. IC 33-4-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-15] Sec. 1. ~~The counties of~~ Dearborn **County** and Ohio ~~shall~~ **County** constitute the seventh judicial circuit. ~~of the State of Indiana.~~

SECTION 508. IC 33-5-10.2-1, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: [33-5-10.2-1] Sec. 2. **(a)** There is established a court of record to be known as the Dearborn superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Dearborn Superior Court, Dearborn County, Indiana".~~

(b) The Dearborn superior court is a standard superior court as described in IC 33-29-1.

(c) Dearborn County comprises the judicial district of the **superior** court.

SECTION 509. IC 33-5-10.2-7, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.2-7] Sec. 3. The **Dearborn superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Dearborn County courthouse in Lawrenceburg ~~Indiana,~~ or in ~~such~~ other places in the county as the Dearborn county executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Dearborn County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 510. IC 33-5-10.2-5, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.2-5] Sec. 4. ~~The judge of the court shall appoint~~ **In addition to** a bailiff and an official court reporter for the court **appointed under IC 33-29-1-5,** the judge may appoint a referee, **a** commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. ~~Their salaries~~ **The salary of a referee, a commissioner, or other person:**

(1) shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court; **and**

~~Their salaries~~ **(2)** shall be paid monthly out of the treasury of Dearborn County as provided by law.

Personnel appointed under this section **or IC 33-29-1-5** continue in office until removed by the judge of the court.

SECTION 511. IC 33-5-10.2-3, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.2-3] Sec. 5. (a) Except as provided in subsection (b), the **Dearborn superior** court has the same jurisdiction as the Dearborn circuit court.

(b) The Dearborn circuit court has exclusive juvenile jurisdiction.

SECTION 512. IC 33-5-10.2-11, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.2-11] Sec. 6. The **Dearborn superior** court has a standard small claims and misdemeanor division.

Chapter 16. Decatur County

SECTION 513. IC 33-4-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-16] Sec. 1. ~~The county of~~ Decatur ~~shall be and constitute~~ **County constitutes** the sixty-ninth judicial circuit. ~~of the State of Indiana.~~

SECTION 514. IC 33-5-10.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.7-1] Sec. 2. (a) There is established a court of record to be known as the Decatur superior court. ~~(referred to as "the court" in this chapter).~~

~~(b) The court may have a seal containing the words "Decatur Superior Court, Decatur County, Indiana".~~

(b) The Decatur superior court is a standard superior court as described in IC 33-29-1.

(c) Decatur County comprises the judicial district of the **superior** court.

SECTION 515. IC 33-5-10.7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.7-7] Sec. 3. ~~(a)~~ The **Decatur superior** court **has one (1) judge who** shall hold sessions in:

(1) the Decatur County courthouse in Greensburg; ~~Indiana,~~ or

(2) other places in the county that the Decatur County executive provides.

~~(b) The Decatur County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.~~

~~(c) The Decatur County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 516. IC 33-5-10.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.7-3] Sec. 4. The **Decatur superior** court has the same jurisdiction as the Decatur circuit court.

SECTION 517. IC 33-5-10.7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.7-11] Sec. 5. The **Decatur superior** court has a standard small claims and misdemeanor division.

Chapter 17. DeKalb County

SECTION 518. IC 33-4-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-17] Sec. 1. ~~The county of~~ DeKalb ~~shall be and constitute~~ **County constitutes** the seventy-fifth judicial circuit. ~~of the State of Indiana.~~

SECTION 519. IC 33-5-10.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.8-1] Sec. 2. **(a)** There is established a court of record to be known as the DeKalb superior court. ~~(referred to as "the court" in this chapter). The court may have a seal containing the words "DeKalb Superior Court, DeKalb County, Indiana".~~

(b) The DeKalb superior court is a standard superior court as described in IC 33-29-1.

(c) DeKalb County comprises the judicial district of the **superior** court.

SECTION 520. IC 33-5-10.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.8-11] Sec. 3. The **DeKalb superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the DeKalb County courthouse in Auburn ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of DeKalb County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of DeKalb County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 521. IC 33-5-10.8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.8-18] Sec. 4. (a) If the transcript of the original papers in a civil action or proceeding received by the clerk of the circuit and superior courts of DeKalb County on change of venue from another county contains an order of the court from which venue was changed designating the circuit court or the superior court as the court to which the case is to be transferred, the clerk shall file the action or proceeding on the docket of the designated court.

(b) If the transcript of the original papers in a civil action or proceeding ~~contains no~~ **does not contain an** order designating the court to which the case is to be transferred, the clerk shall alternately file each action or proceeding on the docket of the circuit court and the docket of the superior court, depending on the order and sequence in which the papers of the cases reach the clerk, so that if the first case is assigned to the circuit court, the next must be assigned to the superior court.

SECTION 522. IC 33-5-10.8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.8-17] Sec. 5. ~~(a) The court has a standard small claims and misdemeanor division.~~

~~(b)~~ **(a) In addition to the appoints made under IC 33-29-1-5,** if the county executive establishes the position of small claims referee to serve the court, the judge of the **DeKalb superior** court may appoint a part-time small claims referee under IC 33-5-2.5 to assist the court in the exercise of its small claims jurisdiction.

~~(c)~~ **(b)** The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars ($20,000) a year as recommended by the judge of the court to be paid by the county after the salary is approved by the county fiscal body. The state shall pay fifty percent (50%) of the salary set under this subsection and the county shall pay the remainder of the salary.

~~(d)~~ **(c)** The county executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including necessary furniture and equipment.

~~(e)~~ **(d)** The court shall employ administrative staff necessary to support the functions of the small claims referee.

~~(f)~~ **(e)** The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

SECTION 523. IC 33-5-10.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.8-3] Sec. 6. The **DeKalb superior** court has the same jurisdiction as the DeKalb circuit court.

SECTION 524. IC 33-5-10.8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.8-17(a)] Sec. 7. (a) The **DeKalb superior** court has a standard small claims and misdemeanor division.

Chapter 18. Delaware County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 525. IC 33-4-1-18, AS AMENDED BY P.L.124-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-18] Sec. 2. ~~(a) The county of~~ Delaware ~~shall constitute~~ **County constitutes** the forty-sixth judicial circuit.

~~(b) There are five (5) judges of the Delaware circuit court.~~

SECTION 526. IC 33-4-12-1, AS ADDED BY P.L.124-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-12-1] Sec. 3. (a) The Delaware circuit court is a court of general jurisdiction with five (5) judges. The divisions of the court shall be known as Delaware circuit court No. 1, No. 2, No. 3, No. 4, and No. 5. The county of Delaware constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following dockets:

(1) Small claims.
(2) Minor offenses and violations.
(3) Criminal.
(4) Juvenile.
(5) Civil.
(6) Probate.

(b) The assignment of judges of the court to the dockets specified in subsection (a) shall be by rule of the court. However, Delaware circuit court No. 4 and Delaware circuit court No. 5 shall each have a standard small claims and misdemeanor docket.

SECTION 527. IC 33-4-12-2, AS ADDED BY P.L.124-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-12-2] Sec. 4. The judges of the Delaware circuit court shall select from among themselves a presiding judge of the court. The presiding judge shall be selected for a minimum term of

twelve (12) months.

SECTION 528. IC 33-4-12-3, AS ADDED BY P.L.124-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-12-3] Sec. 5. ~~Whenever~~ **When** action of the entire court is required, including selection of a presiding judge under section 2 of this chapter and adoption of rules under section ~~5~~ **7** of this chapter, the judges of the court shall act in concert. If the judges disagree, the decision of the majority of the judges controls.

SECTION 529. IC 33-4-12-4, AS ADDED BY P.L.124-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-12-4] Sec. 6. In accordance with rules adopted by the judges of the Delaware circuit court under section ~~5~~ **[7]** of this chapter, the presiding judge shall do the following:

(1) Ensure that the court operates efficiently and judicially.

(2) Annually submit to the fiscal body of Delaware County a budget for the court, including amounts necessary for the following:

(A) Operation of the Delaware circuit court's probation department.

(B) Defense of indigents.

(C) Maintenance of an adequate law library.

(3) Make appointments or selections required of a circuit or superior court judge.

SECTION 530. IC 33-4-12-5, AS ADDED BY P.L.124-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-12-5] Sec. 7. (a) The judges of the Delaware circuit court shall adopt rules to provide for the administration of the court, including rules governing the following:

(1) Allocation of case load.

(2) Legal representation for indigents.

(3) Budgetary matters of the court.

(4) Operation of the probation department.

(5) Term of administration of the presiding judge.

(6) Employment and management of court personnel.

(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The court shall file with the division of state court administration a copy of the rules adopted under this section.

SECTION 531. IC 33-4-12-6, AS ADDED BY P.L.124-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-12-6] Sec. 8. (a) Each judge of the Delaware circuit court may, subject to the budget approved for the court by the fiscal body of Delaware County, employ personnel necessary for the proper administration of the judge's docket.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and

(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section ~~5~~ **[7]** of this chapter.

(c) A commissioner is entitled to practice law in any division of the court in which the commissioner does not have appointive judicial authority. A commissioner has judicial authority only in the division of the court presided over by the judge who appointed the commissioner.

SECTION 532. IC 33-4-12-7, AS ADDED BY P.L.124-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-12-7] Sec. 9. (a) The Delaware circuit court may appoint a court administrator subject to the budget approved for the court by the fiscal body of Delaware County.

(b) A court administrator appointed under this section is subject to the rules concerning employment and management of court personnel adopted by the court under section ~~5~~ **7** of this chapter.

Chapter 19. Dubois County

SECTION 533. IC 33-4-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-19] Sec. 1. ~~The county of~~ Dubois ~~shall be and constitute~~ **County constitutes** the fifty-seventh judicial circuit. ~~of the State of Indiana.~~

SECTION 534. IC 33-5-12.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-12.5-1] Sec. 2. **(a)** There is established a court of record to be known as the Dubois superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Dubois Superior Court, Dubois County, Indiana".~~

(b) The Dubois superior court is a standard superior court as described in IC 33-29-1.

(c) Dubois County comprises the judicial district of the **superior** court.

SECTION 535. IC 33-5-12.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-12.5-11] Sec. 3. The **Dubois superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Dubois County courthouse in Jasper ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Dubois County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Dubois County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 536. IC 33-5-12.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-12.5-8] Sec. 4. The

clerk of the Dubois circuit court shall serve as the clerk of the **Dubois superior** court, and the sheriff of Dubois County shall serve as the sheriff of the **Dubois superior** court. They shall attend the court and perform the same duties relating to their offices as they are required to do with respect to the Dubois circuit court.

SECTION 537. IC 33-5-12.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-12.5-3] Sec. 5. The **Dubois superior** court has the same jurisdiction as the Dubois circuit court.

SECTION 538. IC 33-5-12.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-12.5-16] Sec. 7. The Dubois superior court has a standard small claims and misdemeanor division.

Chapter 20. Elkhart County

SECTION 539. IC 33-4-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-20] Sec. 1. ~~The county of~~ Elkhart ~~shall be and constitute~~ **County constitutes** the thirty-fourth judicial circuit. ~~of the State of Indiana.~~

SECTION 540. IC 33-4-1-20.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-20.1] Sec. 2. (a) The judges of the Elkhart circuit and superior courts may jointly appoint one (1) full-time magistrate under [IC 33-4-7] to serve the circuit and superior courts.

(b) The magistrate continues in office until removed by the judges of the circuit and superior courts.

SECTION 541. IC 33-5-13.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-13.1-1] Sec. 3. **(a)** There is established a court of record to be known as the Elkhart superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Elkhart Superior Court, Elkhart County, Indiana".~~

(b) The Elkhart superior court is a standard superior court as described in IC 33-29-1.

(c) Elkhart County comprises the judicial district of the court.

SECTION 542. IC 33-5-13.1-10, AS AMENDED BY P.L.196-1999, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-13.1-10] Sec. 4. ~~Before January 1, 2001, three (3) and, after December 31, 2000,~~ **The Elkhart superior court has six (6) judges.** Four (4) of the judges of the court shall hold sessions in the Elkhart County courts building in the city of Elkhart. Two (2) of the judges of the court shall hold sessions in an appropriate place in the city of Goshen selected by the county commissioners. ~~The board of county commissioners shall provide and maintain suitable courtrooms and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Elkhart County shall~~

~~appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 543. IC 33-5-13.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-13.1-4] Sec. 5. The judges of the **Elkhart superior** court may make rules for conducting the business of the court. ~~A judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Elkhart circuit court. A judge of the court may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.~~

SECTION 544. IC 33-5-13.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-13.1-3(a)] Sec. 6. ~~(a)~~ The **Elkhart superior** court has the same jurisdiction as the Elkhart circuit court.

SECTION 545. IC 33-5-13.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-13.1(b)] Sec. 7. ~~(b)~~ The **Elkhart superior** court has a standard small claims and misdemeanor division.

Chapter 21. Fayette County

SECTION 546. IC 33-4-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-21] Sec. 1. ~~The county of~~ Fayette ~~shall be and constitute~~ **County constitutes** the seventy-third judicial circuit. ~~of the State of Indiana.~~

SECTION 547. IC 33-5-17.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-17.1-1] Sec. 2. **(a)** There is established a court of record to be known as the Fayette superior court. ~~(referred to as the court in this chapter).~~

(b) The Fayette superior court is a standard superior court as described in IC 33-29-1.

~~The court may have a seal containing the words "Fayette Superior Court, Fayette County, Indiana".~~

(c) Fayette County comprises the judicial district of the court.

SECTION 548. IC 33-5-17.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-17.1-7] Sec. 3. The **Fayette superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Fayette County courthouse in Connersville ~~Indiana,~~ or in ~~such~~ other places in the county as the Fayette County executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Fayette County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 549. IC 33-5-17.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-17.1-3] Sec. 4. The **Fayette superior** court has the same jurisdiction as the Fayette circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 550. IC 33-5-17.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-17.1-11] Sec. 5. The **Fayette superior** court has a standard small claims and misdemeanor division.

Chapter 22. Floyd County

SECTION 551. IC 33-4-1-22, AS AMENDED BY P.L.196-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-22] Sec. 1. (a) ~~The county of~~ Floyd ~~shall constitute~~ **County constitutes** the fifty-second judicial circuit.

(b) The judges of the Floyd circuit court, Floyd superior court, and Floyd county court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit, superior, and county courts.

(c) The magistrate continues in office until removed by the judges of the Floyd circuit, superior, and county courts.

SECTION 552. IC 33-5-18.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-18.1-1] Sec. 2. **(a)** There is established a court of record to be known as the Floyd superior court (referred to as "the court" in this chapter). ~~The court may have a seal containing the words "Floyd Superior Court, Floyd County, Indiana".~~

(b) Except as provided in section 3 of this chapter, the Floyd superior court is a standard superior court as described in IC 33-29-1.

(c) Floyd County comprises the judicial district of the court.

SECTION 553. IC 33-5-18.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-18.1-2] Sec. 3. **(a) IC 33-29-1-3 does not apply to this section.**

(b) The **Floyd superior** court has one (1) judge, who shall be elected at the general election every six (6) years in Floyd County. ~~His~~ **The judge's** term begins January 1 following ~~his~~ **the judge's** election and ends December 31 following the election of ~~his~~ **the judge's** successor.

SECTION 554. IC 33-5-18.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-18.1-10] Sec. 4. The **Floyd superior** court shall hold its sessions in the Floyd County courthouse in New Albany ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Floyd County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Floyd County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 555. IC 33-5-18.1-3, AS AMENDED BY P.L.124-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-18.1-3] Sec. 5. The **Floyd superior** court has the

same jurisdiction as the Floyd circuit court, except that only the circuit court has jurisdiction over juvenile, probate, and trust matters.

Chapter 23. Fountain County

SECTION 556. IC 33-4-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-23] Sec. 1. (a) ~~The county of~~ Fountain ~~shall constitute~~ **County constitutes** the sixty-first judicial circuit.

(b) The Fountain circuit court has a standard small claims and misdemeanor division.

Chapter 24. Franklin County

SECTION 557. IC 33-4-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-24] Sec. 1. (a) ~~The county of~~ Franklin ~~shall constitute~~ **County constitutes** the thirty-seventh judicial circuit.

(b) The Franklin circuit court has a standard small claims and misdemeanor division.

Chapter 25. Fulton County

SECTION 558. IC 33-4-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-25] Sec. 1. ~~The county of~~ Fulton ~~shall be and constitute~~ **County constitutes** the forty-first judicial circuit. ~~of the State of Indiana.~~

SECTION 559. IC 33-5-10.9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.9-1] Sec. 2. (a) There is established a court of record to be known as the Fulton superior court. ~~(referred to as "the court" in this chapter).~~

(b) The Fulton superior court is a standard superior court as described in IC 33-29-1.

~~(b) The court may have a seal containing the words "Fulton Superior Court, Fulton County, Indiana".~~

(c) Fulton County comprises the judicial district of the court.

SECTION 560. IC 33-5-10.9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.9-7] Sec. 3. ~~(a)~~ The **Fulton superior** court **has one (1) judge who** shall hold sessions in:

(1) the Fulton County courthouse in Rochester; ~~Indiana,~~ or

(2) other places in the county as the Fulton County executive may provide.

~~(b) The Fulton County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.~~

~~(c) The Fulton County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 561. IC 33-5-10.9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.9-3] Sec. 4. The **Fulton superior** court has the same jurisdiction as the Fulton circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 562. IC 33-5-10.9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-10.9-11] Sec. 5. The **Fulton superior** court has a standard small claims and misdemeanor division.

Chapter 26. Gibson County

SECTION 563. IC 33-4-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-26] Sec. 1. ~~The county of~~ Gibson ~~shall constitute~~ **County constitutes** the sixty-sixth judicial circuit.

SECTION 564. IC 33-5-18.3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-18.3-1] Sec. 2. **(a)** There is established a court of record to be known as the Gibson superior court. ~~(referred to as "the court" in this chapter).~~

(b) The Gibson superior court is a standard superior court as described in IC 33-29-1.

~~The court may have a seal containing the words "Gibson Superior Court, Gibson County, Indiana".~~

(c) Gibson County comprises the judicial district of the court.

SECTION 565. IC 33-5-18.3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-18.3-7] Sec. 3. The **Gibson superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Gibson County courthouse in Princeton ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Gibson County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Gibson County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 566. IC 33-5-18.3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-18.3-3] Sec. 4. The **Gibson superior** court has the same jurisdiction as the Gibson circuit court, except that only the circuit court has juvenile and probate jurisdiction.

SECTION 567. IC 33-5-18.3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-18.3-11] Sec. 5. The **Gibson superior** court has a standard small claims and misdemeanor division.

Chapter 27. Grant County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.** [QUERY: Can all the Grant Superior Courts be combined in one chapter?]

SECTION 568. IC 33-4-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-27] Sec. 2. ~~The county of~~ Grant ~~shall constitute~~ **County constitutes** the forty-eighth judicial circuit.

SECTION 569. IC 33-5-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-11-1] Sec. 3. ~~The~~ **Grant** County ~~of Grant shall be and constitute~~ **constitutes** the Grant superior court judicial district. ~~and the county of Delaware shall be and constitute the Delaware Superior Court Judicial District of the state of Indiana.~~

SECTION 570. IC 33-5-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-11-10] Sec. 4. **(a)** The term of the judge of the Grant superior court ~~shall be~~ **is** six (6) years ~~if the person shall so long behave himself well,~~ beginning on the first day of January ~~next~~ following ~~his~~ **the judge's** election.

(b) The voters of Grant County every six (6) years at a general election shall elect a person as judge of the court. ~~The election shall be certified in the same manner as is provided by law for the certifying of the election of circuit court judges. If for any cause a vacancy shall occur in the judgeship of the court, the governor shall appoint and commission a person to fill such vacancy for the unexpired term.~~

SECTION 571. IC 33-5-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-11-12] Sec. 5. The Grant superior court shall hold its sessions in ~~the city of~~ Marion. ~~in the county of Grant, state of Indiana.~~

SECTION 572. IC 33-5-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-11-13] Sec. 6. The clerk of the **Grant** circuit court and the sheriff of ~~said county of~~ Grant **County** shall ~~be respectively~~ **serve as** the clerk and sheriff of ~~said~~ **the Grant** superior court. ~~of said county, and such clerk and sheriff shall attend said court in said county and discharge all the duties pertaining to their respective offices, as they are now or may hereafter be required to do by law in the circuit court. They shall be governed in all things by the laws now in force for their government in the circuit court. The prosecuting attorney of the forty-eighth judicial circuit shall prosecute the pleas of the state in said Grant Superior Court.~~

SECTION 573. IC 33-5-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-11-14] Sec. 7. ~~(a) All laws governing pleading, practice, establishing rules, issuing and serving process, giving notice, appointment of judges pro tem and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, contempt and appeals in force in the circuit courts, shall, as far as applicable, govern proceedings in Grant superior court. In all cases in which appeals are authorized to be taken to and from circuit courts, appeals in cases of which said superior court has jurisdiction may be taken to and from said superior court in like manner. Changes of venue may be had from any circuit or superior court to the superior court of said county of Grant, and from the superior court of said county of~~

~~Grant, to any circuit or superior court having jurisdiction of the subject matter of the cause of action, in the same manner that changes of venue are provided for, from, and to the circuit courts of the state. However, if a change of venue is had from the judge of either the circuit or superior court of said Grant County in any cause of which said circuit and superior courts have concurrent jurisdiction, such cause may be sent to the circuit or superior court of said county, as the case may be, and the original papers in such causes shall be transferred from one court to the other, no transcript being necessary. The court to which said cause is so transferred shall have jurisdiction to hear and determine the same and render judgment thereon.~~

~~(b)~~ **(a)** The **Grant** superior court shall, during each calendar year, appoint two (2) persons of Grant County as jury commissioners. ~~and~~ The law ~~made with reference to~~ **concerning** jury commissioners appointed by the **Grant** circuit court ~~shall fully~~ govern the ~~said~~ jury commissioners ~~as~~ appointed by ~~said~~ **the Grant** superior court. ~~in all things, conditions, and qualifications.~~

(b) The jury commissioners shall prepare and draw the jury for ~~said~~ **the Grant** superior court as ~~the law directs the same to be~~ **is** done by the jury commissioners for the **Grant** circuit court. ~~and the said superior court shall be governed by said law in making said appointments of said jury commissioners. The clerk of Grant County in issuing process for said jury, and the sheriff of said county in serving the same, shall in all things be governed by the law made for petit jurors in the circuit court. However,~~

(c) The **Grant** superior court may order on what day ~~said~~ jurors ~~shall be~~ **are** summoned to attend ~~said~~ **the Grant superior** court. ~~and~~ The **Grant superior court** judge ~~of said court~~ may order the selection and summoning of other jurors for ~~said~~ **the superior** court ~~whenever the same may be~~ **when** necessary. If, at any time, a jury ~~shall be~~ **is** not drawn, ~~then~~ the clerk of ~~said~~ **the** court shall select from among the properly qualified residents of ~~such~~ **Grant** County jurors for ~~such~~ **the** term, who shall be summoned and considered in all things as the regular panel of ~~said~~ **the superior** court.

SECTION 574. IC 33-5-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-11-16] Sec. 8. ~~It shall be the duty of~~ The clerk of the Grant circuit court ~~to~~ **shall** enter all judgments rendered in, and executions issued from, and papers filed in ~~said~~ **the Grant** superior ~~courts~~ **court** in the same judgment and execution dockets, lis pendens records, and other dockets and records, except order-books, as are used for judgments and executions and proceedings of the **Grant** circuit court. ~~of said county,~~ The clerk ~~noting~~ **shall note** whether any judgment or proceeding is a judgment or proceeding of the **Grant** circuit or **Grant** superior court.

SECTION 575. IC 33-5-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-11-11] Sec. 9. The Grant superior court has the same jurisdiction as the **Grant** circuit court. ~~of its county.~~

Chapter 27.2. Grant County Superior Court No. 2

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 576. IC 33-5-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19-1] Sec. 2. ~~There is hereby created a~~ **The Grant** superior court No. 2, ~~in and for the county of Grant, Indiana, which court shall consist~~ **is established as a court of record. The court consists** of one (1) judge, who shall hold ~~his~~ office for a term of six (6) years, beginning on the first day of January after ~~his~~ **the judge's** election, and until ~~his~~ **the judge's** successor is elected and qualified. Every six (6) years, the voters of Grant County shall elect at the general election a judge for the **Grant** superior court **No. 2.**

SECTION 577. IC 33-5-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19-2] Sec. 3. ~~The Superior Court No. 2 created by the provisions of this chapter shall be known as the "Grant County Superior Court No. 2," and the county of~~ Grant ~~shall constitute~~ **County constitutes** the judicial district of ~~said~~ **the Grant superior** court **No. 2.** The court ~~shall be a court of record and general jurisdiction, and~~ shall have a seal containing the words "Grant Superior Court No. 2, of Grant County, Indiana".

SECTION 578. IC 33-5-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19-3] Sec. 4. The judge of the Grant superior court No. 2 shall appoint a bailiff and an official court reporter for ~~said~~ **the** court, to serve ~~as such during~~ **at** the pleasure of the court. The judge shall fix their compensation ~~within the limits and in the manner~~ as ~~may be~~ provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Grant County. ~~in the manner provided by law.~~

SECTION 579. IC 33-5-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19-4] Sec. 5. **(a)** The Grant superior court No. 2, shall hold its sessions in a place to be determined by the county council of Grant County. ~~Indiana, and~~

(b) The board of county commissioners of Grant County shall provide and maintain in the courthouse a suitable and convenient courtroom for the holding of ~~said~~ court, together with a suitable and convenient jury room and offices for the judge and the official court reporter.

(c) The board of county commissioners shall provide all necessary furniture and equipment for the rooms and offices of the court, and all necessary dockets, books, and records for the court. The county council

shall make the necessary appropriations from the general fund of the county ~~for the purpose of carrying~~ **to carry** out ~~the provisions of~~ this chapter.

SECTION 580. IC 33-5-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19-5] Sec. 6. The Grant superior court No. 2 has the same jurisdiction as the Grant circuit court.

SECTION 581. IC 33-5-19-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19-6] Sec. 7. The judge of the Grant superior court No. 2 ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the Grant superior court No. 2. ~~not repugnant to the laws of the state of Indiana or the rules of the Supreme Court of the state of Indiana.~~ The judge ~~shall have~~ **has** all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt, and the power to enforce ~~his~~ **the judge's** orders. The judge ~~of said court shall have full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgments of deeds, ~~and to~~ give all necessary certificates for the authentication of records and proceedings of ~~said~~ **the** court, and ~~to~~ make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

SECTION 582. IC 33-5-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19-7] Sec. 8. The judge of Grant superior court No. 2, shall during the last term beginning in each calendar year, appoint for the next calendar year, two (2) persons, one **(1)** of whom ~~shall~~ **must** be a resident of the city in which terms of the court shall be held as jury commissioners, who shall be freeholders and voters of Grant County, ~~Indiana,~~ well known to be of different political faith and of good character for intelligence, morality and integrity, and cause them to appear and take an oath or affirmation in open court, to be entered of record in the order book of the court in the following form: "You do solemnly swear (or affirm) that you will honestly, and without favor or prejudice, perform the duties of jury commissioners during your term of office, that, in selecting persons to be drawn as jurors, you will select none but persons whom you believe to be of good repute for integrity and honesty, that you will select (none of whom you have been or may be requested to select), and that, in all of your selections, you will endeavor to promote only the impartial administration of justice." The court shall ~~thereupon~~ **then** instruct them concerning their duties.

SECTION 583. IC 33-5-19-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19-8] Sec. 9. ~~All~~ Laws ~~of the state of Indiana, now in force or that may hereafter be enacted~~ governing the powers, duties, and procedure of jury commissioners in

circuit courts, ~~of the state of Indiana,~~ their failure to act, their contempt of court, a vacancy and the appointment of successor, their qualifications, their selection of petit jurors, their keeping a box of prospective jurors locked, the manner of drawing petit jurors' names therefrom, the selection of additional jurors, the selection of special venires and laws of the state ~~of Indiana,~~ pertaining to special juries, struck jury with or without notice, **and** the duties of the clerk of the court pertaining to the drawing and recording of names of prospective petit jurors, ~~shall be applicable to and~~ govern the jury commissioners ~~duly~~ appointed and the selection of petit jurors juries in the Grant superior court No. 2.

Chapter 27.3. Grant County Superior Court No. 3

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 584. IC 33-5-19.3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-1] Sec. 2. (a) There is established a court of record to be known as the Grant superior court No. 3 (referred to as "the court" in this chapter).

(b) The court may have a seal containing the words "Grant Superior Court No. 3, Grant County, Indiana".

(c) Grant County comprises the judicial district of the court.

SECTION 585. IC 33-5-19.3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-2] Sec. 3. (a) The court has one (1) judge who shall be elected at the general election every six (6) years in Grant County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as a judge of the court, a person must be:

(1) a resident of Grant County;

(2) less than seventy (70) years of age at the time of taking office; and

(3) admitted to the practice of law in Indiana.

SECTION 586. IC 33-5-19.3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-3] Sec. 4. The court has the same jurisdiction as the Grant circuit court.

SECTION 587. IC 33-5-19.3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-4] Sec. 5. The judge of the court:

(1) has the same powers relating to the conduct of the business of the court as the judges of the Grant circuit court, Grant superior court, and Grant superior court No. 2; and

(2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 588. IC 33-5-19.3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-5] Sec. 6. (a) The

judge of the court shall appoint a bailiff and an official court reporter for the court.

(b) The salaries of the bailiff and the official court reporter shall be:

(1) fixed in the same manner as the salaries of the bailiff and official court reporter for the Grant circuit court, Grant superior court, and Grant superior court No. 2; and

(2) paid monthly out of the treasury of Grant County as provided by law.

SECTION 589. IC 33-5-19.3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-6] Sec. 7. The clerk of the court, under the direction of the judge of the court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books for the court;

that shall be kept separately from the books and papers of other courts.

SECTION 590. IC 33-5-19.3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-7] Sec. 8. (a) The court shall hold its sessions in:

(1) the Grant County courthouse in Marion; ~~Indiana,~~ or

(2) other places in the county that the Grant County executive provides.

(b) The Grant County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.

(c) The Grant County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.

SECTION 591. IC 33-5-19.3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-8] Sec. 9. (a) Each year the judge of the court shall appoint two (2) individuals who reside in Grant County to serve as jury commissioners for the court.

(b) Juries for the court shall be selected in the same manner as juries for the Grant circuit court.

(c) The grand jury selected for the Grant circuit court shall also serve as the grand jury for the court as may be necessary.

SECTION 592. IC 33-5-19.3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-9] Sec. 10. (a) The judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the Grant circuit court, Grant superior court, or Grant superior court No. 2 to the court.

(b) The judge of the court may, with the consent of the judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2,

transfer any action or proceeding from the court to the Grant circuit court, Grant superior court, or Grant superior court No. 2.

SECTION 593. IC 33-5-19.3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-10] Sec. 11. (a) The judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter as if an elected judge of the court.

(b) The judge of the court may, with the consent of the judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2, sit as a judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 in any matter as if an elected judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2.

SECTION 594. IC 33-5-19.3-11, AS AMENDED BY P.L.2-2002, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.3-11] Sec. 12. (a) The court has a standard small claims and misdemeanor division.

(b) Notwithstanding [IC 33-5-2-4,] the small claims docket has jurisdiction over the following:

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

Chapter 28. Greene County

SECTION 595. IC 33-4-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-28] Sec. 1. ~~The County of~~ Greene ~~shall be and constitute~~ **County constitutes** the sixty-third judicial circuit.

SECTION 596. IC 33-5-19.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.5-2] Sec. 2. **(a)** There is established a court of record to be known as the Greene superior court. ~~(referred to as "the court" in this chapter).~~

(b) The Greene superior court is a standard superior court as described in IC 33-29-1.

~~The court may have a seal containing the words "Greene Superior Court, Greene County, Indiana".~~

(c) Greene County comprises the judicial district of the court.

SECTION 597. IC 33-5-19.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.5-7] Sec. 3. The

Greene superior court **has one (1) judge who** shall hold ~~its~~ sessions in the Greene County courthouse in Bloomfield ~~Indiana,~~ or in ~~such~~ other places in the county as the Greene County executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Greene County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 598. IC 33-5-19.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.5-3] Sec. 4. The **Greene superior** court has the same jurisdiction as the Greene circuit court.

SECTION 599. IC 33-5-19.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.5-11] Sec. 5. The **Greene superior** court has a standard small claims and misdemeanor division.

Chapter 29. Hamilton County

SECTION 600. IC 33-4-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-29] Sec. 1. ~~The County of~~ Hamilton ~~shall constitute~~ **County constitutes** the twenty-fourth judicial circuit.

SECTION 601. IC 33-5-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-22-2] Sec. 2. ~~The~~ **(a) There are established five (5)** superior courts ~~shall~~ **of record to** be known as the Hamilton superior court No. 1, the Hamilton superior court No. 2, the Hamilton superior court No. 3, the Hamilton superior court No. 4, and the Hamilton superior court No. 5.

(b) Except as otherwise provided in this chapter, each Hamilton superior court is a standard superior court as described in IC 33-29-1.

~~and the county of~~ **(c)** Hamilton ~~shall constitute~~ **County constitutes** the judicial district of each court.

~~Each court is a court of record and general jurisdiction and shall have a seal containing the words "Hamilton Superior Court (insert No. 1, No. 2, No. 3, No. 4, or No. 5) of Hamilton County, Indiana".~~

SECTION 602. IC 33-5-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-22-4] Sec. 3. Each Hamilton superior court **has one (1) judge who** shall hold ~~its~~ sessions in the Hamilton County courthouse, in ~~the city of~~ Noblesville ~~Indiana,~~ or in another convenient and suitable place provided by the board of county commissioners. ~~The board of county commissioners of Hamilton County shall provide and maintain a suitable and convenient courtroom for the holding of each court, together with a suitable and convenient jury room and offices for each judge and official court reporter. The board of county commissioners shall also provide all~~

~~necessary furniture and equipment for the rooms and offices of each court; and all necessary dockets, books and records for each court.~~

SECTION 603. IC 33-5-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-22-3] Sec. 4. **In addition to the personnel that may be appointed under IC 33-29-1-5,** the judge of each Hamilton superior court

~~(1) shall appoint a bailiff and an official court reporter for the court; and~~

~~(2)~~ may appoint other personnel necessary to facilitate and transact the business of the court.

~~to~~ **The other necessary personnel shall** serve ~~as such during~~ **at** the pleasure of the court, and the judge shall fix their compensation within the limits and in the manner provided by law concerning ~~bailiffs, official court reporters, and~~ other personnel of the court. The compensation shall be paid monthly out of the treasury of Hamilton County in the manner provided by law.

SECTION 604. IC 33-5-22-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-22-12] Sec. 5. (a) The clerk of the Hamilton circuit court ~~and the jury commissioners appointed by the Hamilton circuit court~~ shall ~~also~~ serve ~~as jury commissioners for~~ the Hamilton superior courts and shall be governed in all respects as provided by law.

(b) Jurors need not serve in the particular order in which they are drawn by the jury commissioners.

(c) Any judge of the Hamilton circuit or superior court may order the selection and summoning of other jurors for the circuit or superior court whenever necessary. Jurors shall serve all the Hamilton circuit and superior courts and shall serve any judge of the courts where juror service may be required.

SECTION 605. IC 33-5-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-22-9] Sec. 6. The judges of the Hamilton superior court may jointly appoint one (1) full-time magistrate under [IC 33-4-7.] The magistrate continues in office until removed by the judges of the superior court.

SECTION 606. IC 33-5-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-22-5] Sec. 7. Each Hamilton superior court has concurrent jurisdiction, both original and appellate, with the Hamilton circuit court ~~in Hamilton County,~~ in all civil actions and proceedings at law and in equity, in all juvenile matters, and in all criminal and probate matters, actions, and proceedings of which the Hamilton circuit court has jurisdiction.

SECTION 607. IC 33-5-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-22-8] Sec. 8. The Hamilton superior court No. 4 and the Hamilton superior court No. 5 have a standard small claims and misdemeanor division.

Chapter 30. Hancock County

SECTION 608. IC 33-4-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-30] Sec. 1. ~~The county of~~ Hancock ~~in said State shall constitute~~ **County constitutes** the eighteenth judicial circuit.

SECTION 609. IC 33-5-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-23-1 part] Sec. 2. There are established two (2) superior courts ~~in and for the county of Hancock, Indiana,~~ **of record to be known as the Hancock superior court No. 1 and the Hancock superior court No. 2.**

(b) Except as otherwise provided in this chapter, each Hancock superior court is a standard superior court as described in IC 33-29-1.

(c) Hancock county comprises the judicial district of each court.

SECTION 610. IC 33-5-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-23-1 part] Sec. 3. **(a) IC 33-29-1-3 does not apply to this section.**

(b) Each of ~~which shall consist~~ **court consists** of one (1) judge who ~~shall hold his~~ **holds** office for six (6) years, beginning on January 1 after ~~his~~ **the judge's** election and until ~~his~~ **the judge's** successor is elected and qualified. Every six (6) years, the voters of Hancock County shall elect at the general election a judge for each superior court.

SECTION 611. IC 33-5-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-23-4] Sec. 4. Hancock superior court No. 1 and Hancock superior court No. 2 shall each hold sessions in the Hancock County courthouse, in ~~the city of~~ Greenfield. ~~Indiana. The board of county commissioners of Hancock County shall provide and maintain in the courthouse a suitable and convenient courtroom for the holding of each court with a suitable and convenient jury room and offices for the judge and the official court reporter and the common council shall appropriate sufficient funds therefor.~~

SECTION 612. IC 33-5-23-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-23-6] Sec. 5. **In addition to the powers described in IC 33-29-1-4,** the judges of Hancock superior court No. 1 and Hancock superior court No. 2 ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of Hancock superior court No. 1 and Hancock superior court No. 2 ~~not repugnant to the laws of the state of Indiana, or rules of the supreme court of the state of Indiana~~ and ~~shall~~ have all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and ~~to enforce~~ **the enforcement of** the courts' orders. The judge of each superior court ~~has full authority to administer oaths, solemnize marriages, take and certify acknowledgment of deeds and to give all necessary certificates~~

~~for the authentication of records and proceedings of the superior courts and to~~ **may** make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

SECTION 613. IC 33-5-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-23-8] Sec. 6. Notwithstanding the provisions of any statute applying generally to superior or circuit courts, a judge of the:

(1) Hancock circuit court;

(2) Hancock superior court No. 1; or

(3) Hancock superior court No. 2;

may transfer an action or proceeding from the Hancock circuit court or a Hancock superior court to the Hancock circuit court or another Hancock superior court with the consent of the judge of the court that would receive the action or proceeding.

SECTION 614. IC 33-5-23-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-23-9] Sec. 7. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause ~~be~~ **is** received by the clerk of the Hancock circuit court on change of venue from another county, the ~~same~~ **cause** may be docketed in either the Hancock circuit court, Hancock superior court No. 1, or Hancock superior court No. 2, under rules adopted by the judges of the Hancock circuit court, Hancock superior court No. 1, and Hancock superior court No. 2, unless otherwise provided in the order, report of striking, or entry made in the cause in the county from which the change of venue was taken, in which case it shall be docketed as provided in the entry, report, or order.

SECTION 615. IC 33-5-23-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-23-11] Sec. 8. Each superior court shall, during the last term of court [QUERY: LAST TERM OF COURT"?] in each calendar year, appoint for the next calendar year two (2) persons who are residents of Hancock County as jury commissioners, and the law ~~with reference to~~ **concerning** jury commissioners appointed by the circuit court ~~as it now exists or as may hereafter be enacted, shall fully~~ govern the jury commissioners as appointed by each superior court in all things, conditions, and qualifications. ~~and~~ The jury commissioners shall prepare and draw the petit jury for each superior court as the law directs the same to be done by the jury commissioners for the circuit court. ~~and~~ Each superior court ~~shall be~~ **is** governed by the law in the making of appointments of the jury commissioners, and the clerk in issuing process for the jury and the sheriff in serving the same [QUERY: WHAT DOES "SAME" REFER TO?] ~~shall in all things be~~ **is** governed by the law made for petit jurors in the circuit court. Each superior court may order on what

day of the term the jurors ~~shall be~~ **are** summoned to attend court and the judge of each court may order the selection and summoning of other jurors for the court whenever ~~the same may be~~ **it is** necessary.

SECTION 616. IC 33-5-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-23-5] Sec. 9. Hancock superior court No. 1 and Hancock superior court No. 2 have the same jurisdiction as the Hancock circuit court.

SECTION 617. IC 33-5-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-23-13] Sec. 10. Hancock superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 31. Harrison County

SECTION 618. IC 33-4-1-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-31] Sec. 1. ~~The county of~~ Harrison **County** constitutes the third judicial circuit.

SECTION 619. IC 33-5-19.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.8-1] Sec. 2. (a) There is established a court of record to be known as the Harrison superior court. ~~(referred to as "the court" in this chapter).~~

(b) The Harrison superior court is a standard superior court as described in IC 33-29-1.

~~(b) The court may have a seal containing the words "Harrison Superior Court, Harrison County, Indiana".~~

(c) Harrison County comprises the judicial district of the court.

SECTION 620. IC 33-5-19.8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.8-7] Sec. 3. ~~(a)~~ The **Harrison superior** court **has one (1) judge who** shall hold sessions in:

(1) the Harrison County courthouse in Corydon; ~~Indiana,~~ or

(2) other places in the county as the Harrison County executive may provide.

~~(b) The Harrison County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.~~

~~(c) The Harrison County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 621. IC 33-5-19.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.8-3] Sec. 4. The **Harrison superior** court has the same jurisdiction as the Harrison circuit court.

SECTION 622. IC 33-5-19.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-19.8-11] Sec. 5. The **Harrison superior** court has a standard small claims and misdemeanor division.

Chapter 32. Hendricks County

SECTION 623. IC 33-4-1-32 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-32] Sec. 1. ~~The County of~~ Hendricks ~~shall constitute~~ **County constitutes** the fifty-fifth judicial circuit.

SECTION 624. IC 33-5-25-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25-2] Sec. 2. ~~The~~ **There are established three (3)** superior courts ~~shall~~ **of record to** be known as Hendricks superior court No. 1, Hendricks superior court No. 2, and Hendricks superior court No. 3. ~~and the county of~~

(b) Except as otherwise provided in this chapter, each Hendricks superior court is a standard superior court as described in IC 33-29-1.

(c) Hendricks ~~shall constitute~~ **County comprises** the judicial district of each court. ~~Each court shall be a court of record of general jurisdiction and shall have a seal containing the words "Hendricks Superior Court _____ (insert "No. 1", "No. 2", or "No. 3") of Hendricks County, Indiana.".~~

SECTION 625. IC 33-5-25-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25-4] Sec. 3. Each Hendricks superior court **has one (1) judge who** shall hold ~~its~~ sessions in the Hendricks County courthouse in ~~the town of~~ Danville. ~~Indiana. and the board of county commissioners of Hendricks County shall provide and maintain in said courthouse a suitable and convenient courtroom for the holding of each court, with a suitable and convenient jury room and offices for the judge and the official court reporter, and the common council shall appropriate sufficient funds therefor.~~

SECTION 626. IC 33-5-25-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25-7] Sec. 4. **Notwithstanding IC 33-29-1-9,** an action, **a** cause, **a** case, **a** proceeding, or **other** matter filed in the Hendricks circuit court or a **Hendricks** superior court established by this chapter may be transferred by the court in which it is filed to either of the other courts by transferring all original papers filed ~~without further transcript thereof,~~ with the consent of the court to which it is transferred.

SECTION 627. IC 33-5-25-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25-9] Sec. 5. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hendricks circuit court on change of venue from another county, the ~~same~~ **cause** shall be docketed on a rotating basis and assigned alternately to the Hendricks circuit court, Hendricks superior court No. 1, Hendricks superior court No. 2, and Hendricks superior court No. 3 unless otherwise provided in the order or entry made in such cause in the county from which such change of venue was taken, in which case it shall be docketed as

provided in ~~such~~ **the** entry or order.

SECTION 628. IC 33-5-25-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25-11] Sec. 6. ~~(a) The judge of each superior court shall have the same power to grant restraining orders, injunctions and writs of ne exeat, to issue writs of habeas corpus, and of mandate and prohibition, to appoint receivers, master commissioners, and commissioners to convey real property, and to grant commissions for the examination of witnesses, and to appoint other officers and employees necessary to facilitate and transact the business of said court, as is conferred on circuit courts or the judges thereof.~~

~~(b)~~ **In addition to the powers described in IC 33-29-1-4,** the judge of each **Hendricks** superior court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for continuing business of the court. ~~not repugnant to the laws of the state of Indiana or the rules of the Supreme Court of the state of Indiana.~~ Each judge ~~shall have all~~ **has the** powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce ~~his~~ **the judge's** orders. Each judge ~~shall have full authority to administer oaths, solemnize marriages, take and certify acknowledgments of deeds, and to give all necessary certificates for the authentication of records and proceedings of his court, and to~~ **may** make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

SECTION 629. IC 33-5-25-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25-14] Sec. 7. ~~The jury commissioners appointed by the circuit court shall serve as the jury commissioners for each superior court in all things, conditions, and qualifications, and said jury commissioners shall prepare and draw the petit jury for each superior court as the law directs the same to be done for the circuit court.~~ **Notwithstanding IC 33-29-1-8,** the judge of each **Hendricks superior** court may order the selection and summoning of other jurors for ~~his~~ **the judge's** court ~~whenever the same may be~~ **when** necessary. ~~and~~ If at any time a jury shall for any reason be not drawn, then the clerk shall select from among the properly qualified residents of ~~such~~ **Hendricks** County a jury, who shall be summoned and considered in all things as the regular panel of the court.

SECTION 630. IC 33-5-25-5, AS AMENDED BY P.L.217-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25-5] Sec. 8. (a) Each **Hendricks** superior court ~~in the county~~ has original and concurrent jurisdiction with the **Hendricks** circuit court in all civil actions and proceedings at law and in equity, and actions for dissolution or annulment of marriage, and in

all criminal cases and proceedings. ~~but~~ **However,** none of the **Hendricks** superior courts have the jurisdiction of a juvenile court.

(b) Each **Hendricks** superior court ~~in the county~~ has original and concurrent jurisdiction with the **Hendricks** circuit court in all appeals or reviews from boards of county commissioners or other executive or administrative agencies and all other appellate jurisdiction vested in the circuit court.

SECTION 631. IC 33-5-25-18, AS AMENDED BY P.L.51-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25-18] Sec. 9. Each **Hendricks** superior court has a standard small claims and misdemeanor division.

Chapter 33. Henry County

SECTION 632. IC 33-4-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-33] Sec. 1. ~~The county of~~ Henry ~~in said State shall constitute~~ **County constitutes** the fifty-third judicial circuit.

SECTION 633. IC 33-5-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-21-1] Sec. 2. (a) There ~~hereby is~~ **are** established ~~a~~ **two (2)** superior ~~court No. 1~~ **courts of record** ~~in and for the county of Henry, Indiana The court shall consist of one (1) judge, who shall hold his office for six (6) years, beginning on the first day of January after his election, and until his successor is elected and qualified. Every six (6) years, the voters of Henry County shall elect at the general election a judge for the superior court No. 1.~~

~~(b) An additional court is established to be known as Henry superior court No. 2. Henry superior court No. 2 has one (1) judge, who is elected at the general election every six (6) years in Henry County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.~~

~~(c) To be eligible to hold office as a judge of a Henry superior court, a person must be:~~

~~(1) a resident of Henry County;~~

~~(2) less than seventy (70) years of age at the time of taking office; and~~

~~(3) admitted to the practice of law in Indiana.~~

to be known as Henry superior court No. 1 and Henry superior court No. 2.

(b) Except as otherwise provided in this chapter, each Henry superior court is a standard superior court as described in IC 33-29-1.

(c) Henry county comprises the judicial district of each court.

SECTION 634. IC 33-5-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-21-4] Sec. 3. Each Henry superior court **has one (1) judge who** shall hold ~~its~~ sessions in

the Henry County courthouse in ~~the city of~~ New Castle ~~Indiana,~~ or in ~~such~~ other places in the county as the Henry County executive may provide. ~~and the board of county commissioners of Henry County shall provide and maintain a suitable and convenient courtroom for the holding of each court with a suitable and convenient jury room and offices for the judges and each official court reporter, and the county council shall appropriate sufficient funds therefor.~~

SECTION 635. IC 33-5-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-21-9] Sec. 4. (a) Change of venue from the judge **of a Henry superior court** or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause ~~be~~ **is** received by the clerk of the Henry circuit court on change of venue from another county, the ~~same~~ **cause** shall be docketed in the Henry circuit court unless otherwise provided in the order or entry made in ~~such~~ **the** cause in the county from which ~~such~~ **the** change of venue was taken, in which case it shall be docketed as provided in ~~such~~ **the** entry or order.

(c) The Henry circuit court may issue a general order transferring cases venued to the Henry circuit court from other counties to Henry superior court No. 1 or Henry superior court No. 2. A general order issued under this subsection may be amended by the circuit court.

SECTION 636. IC 33-5-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-21-14] Sec. 5. ~~(a) The judge of the Henry circuit court may, with the consent of the judge of a court, sit as a judge of the court in any matter as if the judge of the circuit court was an elected judge of the court.~~

~~(b) The judge of a court may, with the consent of the judge of the circuit court, sit as a judge of the circuit court in any matter as if the judge of the court was an elected judge of the circuit court.~~

~~(c)~~ The judge of a **Henry superior** court may, with the consent of the judge of the other **Henry superior** court, sit as a judge of the other court in any manner as if elected as the judge of the other court.

SECTION 637. IC 33-5-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-21-5(a)] Sec. 6. ~~(a)~~ The **Henry superior** courts have the same jurisdiction as the Henry circuit court.

[33-5-21-5(b)] Sec. 7. ~~(b)~~ Henry superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 34. Howard County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.** [QUERY: Combine Howard superior court chapters?]

SECTION 638. IC 33-4-1-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-34] Sec. 2. ~~The~~

~~county of~~ Howard ~~shall constitute~~ **County constitutes** the sixty-second judicial circuit. ~~of the State of Indiana.~~

SECTION 639. IC 33-5-20.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-1] Sec. 3. There ~~shall be and~~ is ~~hereby~~ established a ~~superior~~ court ~~in Howard County, Indiana, which shall consist~~ **of record to be known as the Howard superior court. The court consists** of two (2) judges ~~who shall hold their offices~~ **each of whom holds office** for six (6) years and until ~~their~~ **the judge's** successor ~~shall have been~~ **is** elected and qualified.

SECTION 640. IC 33-5-20.1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-24] Sec. 4. The judge for this court shall be elected every six (6) years at the general election. The term of office ~~shall begin~~ **begins** the first day of January following ~~his~~ **the judge's** election, and ~~continue~~ **continues** for six (6) years and until ~~his~~ **the judge's** successor is elected and qualified.

SECTION 641. IC 33-5-20.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-3] Sec. 5. The **Howard superior** court shall have a seal consisting of a circular disk containing the words "Howard Superior Court," an impression of which shall be spread of record upon the order book of the Court.

SECTION 642. IC 33-5-20.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-8] Sec. 6. The **Howard** superior court ~~of Howard County~~ shall hold its sessions in the Howard County courthouse in ~~the city of~~ Kokomo ~~Indiana,~~ or in ~~such~~ other convenient and suitable place as the board of county commissioners of Howard County ~~shall provide. Said~~ **provides. The** board of county commissioners shall provide and maintain a suitable and convenient courtroom for the holding of the court, with a suitable and convenient jury room and offices for the judge and the official court reporter, ~~which rooms shall be ready for occupancy by July 1, 1974,~~ and the county council shall meet and appropriate all necessary funds. ~~therefor.~~

SECTION 643. IC 33-5-20.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-6] Sec. 7. The judges of the **superior** court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the court ~~not repugnant to the laws of this state,~~ and ~~shall~~ have ~~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. The judges ~~shall have the full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgement of deeds, and ~~to~~ give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 644. IC 33-5-20.1-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-7] Sec. 8. The judges of the **superior** court ~~shall~~ have the same power to grant restraining orders, injunctions and writs of ne exeat, to issue writs of habeas corpus and of mandate and prohibition, 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 ~~now or may hereafter be~~ conferred on circuit courts. ~~or the judges thereof.~~

SECTION 645. IC 33-5-20.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-12] Sec. 9. The clerk, under the direction of the judge, shall provide order books, judgment dockets, execution dockets, fee books, and such other books, papers, and records as ~~may be~~ **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.

SECTION 646. IC 33-5-20.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-13] Sec. 10. Each judge shall appoint a bailiff and court reporter whose duties, salary, and term shall be regulated in the same manner as ~~now or hereafter~~ **is** provided for the circuit court.

SECTION 647. IC 33-5-20.1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-15] Sec. 11. ~~Prior to~~ **Before** the commencement of any term of ~~said~~ **the** court, at the time and place provided by law, the clerk of ~~said~~ **the** court and jury commissioners appointed by the judge of the circuit court of ~~said~~ **the** county as provided by law, shall proceed to select a petit jury, in the manner as is ~~now~~ provided by law, to serve at the next ensuing term of court, and the officers in selecting, and the clerk, in issuing process for, the jury, and the sheriff in serving the same, ~~shall in all things be~~ **are** governed by the rules and regulations prescribed for the selection of petit jurors in the circuit court. ~~Provided, That~~ The court may order on what day of the term the jurors ~~shall be~~ **are** summoned to attend the court. The judge of the court may order the selecting and summoning of other jurors for the court whenever ~~the same may be~~ **it is** necessary.

SECTION 648. IC 33-5-20.1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-18] Sec. 12. Each judge ~~shall have the right to~~ **may** appoint ~~such~~ additional officers and personnel as ~~may be~~ **is** necessary for the proper administration of ~~his~~ **the judge's** duties as judge of the court.

SECTION 649. IC 33-5-20.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-19] Sec. 13. The court shall adopt rules to provide for the operation and conduct of the court. The court shall designate one (1) of the judges as presiding judge

who shall serve in that capacity for ~~a period of~~ three (3) years, at the end of which another judge shall be selected to serve as presiding judge for the same period. It ~~shall be~~ **is** the responsibility of the presiding judge to ensure that ~~said~~ **the** court operates efficiently and judicially.

SECTION 650. IC 33-5-20.1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-20] Sec. 14. Whenever any action of the entire court is required, then the judges of the court ~~will~~ **shall** act in concert. ~~In the event of~~ **If there is a** disagreement, the decision of the presiding judge ~~shall control.~~ **controls.**

SECTION 651. IC 33-5-20.1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-21] Sec. 15. The judge of the circuit court may, with the consent of this court, transfer any action, cause, or proceeding filed and docketed in the circuit court to this court by transferring all original papers and instruments filed in ~~such~~ **the** action, cause, or proceeding without further transcript ~~thereof~~ to be redocketed and disposed of as if originally filed with this court.

SECTION 652. IC 33-5-20.1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-22] Sec. 16. Any judge of this court may, with the consent of the judge of the circuit court transfer any action, cause, or proceeding filed and docketed in this court to the 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 this court.

SECTION 653. IC 33-5-20.1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-23] Sec. 17. The judge of the Howard ~~County~~ circuit court ~~shall, at his discretion and~~ **may,** with the court's permission, ~~be authorized to~~ sit and ~~to~~ act as a judge of this court in all matters pending before this court, without limitation and without any further order, in the same manner and stead as if ~~he were~~ **the judge were** a judge of this court, with all the rights and powers as if ~~he were a duly~~ **the judge were an** elected judge of this court, including the right to act as presiding judge and otherwise participate in the organization and administration of this court.

SECTION 654. IC 33-5-20.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.1-4] Sec. 18. **(a)** The **Howard** superior court ~~within and for the county, shall have~~ **has** original and concurrent jurisdiction with the circuit court in all civil actions and proceedings at law and in equity, probate and guardianship proceedings, actions for divorce, separation, or annulment of marriage, and in all criminal cases and proceedings. ~~Provided,~~ However, ~~That~~ the superior court ~~shall~~ **does** not have the jurisdiction of a juvenile court or judge, ~~thereof,~~ as defined by [IC 33-12.]

(b) The **Howard** superior court ~~within and for said county, shall~~

~~have~~ **has** original and concurrent jurisdiction in all appeals or reviews from boards of county commissioners, other executive or administrative agencies or inferior courts, and all other appellate jurisdictions vested in the circuit court.

Chapter 34.3. Howard County Superior Court No. 3

SECTION 655. IC 33-5-20.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.2-1] Sec. 1. (a) There is established a court of record to be known as the Howard superior court No. 3. ~~(referred to as "the court" in this chapter).~~

~~(b) The court may have a seal containing the words "Howard Superior Court No. 3, Howard County, Indiana".~~

(b) Except as otherwise provided in this chapter, the Howard superior court No. 3 is a standard superior court as described in IC 33-29-1.

(c) Howard County comprises the judicial district of the court.

SECTION 656. IC 33-5-20.2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.2-7] Sec. 2. ~~(a)~~ The **court has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the Howard County courthouse in Kokomo; ~~Indiana;~~ or

(2) other places in the county that the Howard County executive provides.

~~(b) The Howard County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.~~

~~(c) The Howard County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 657. IC 33-5-20.2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.2-4] Sec. 3. The judge of the **Howard superior** court **No. 3:**

(1) has the same powers relating to the conduct of the business of the court as the judges of the Howard circuit court, Howard superior court, and Howard superior court No. 2; and

(2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 658. IC 33-5-20.2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.2-9] Sec. 4. (a) The judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the Howard circuit court, Howard superior court, or Howard superior court No. 2 to the court.

(b) The judge of the court may, with the consent of the judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2, transfer any action or proceeding from the court to the Howard circuit court, Howard superior court, or Howard superior court No. 2.

SECTION 659. IC 33-5-20.2-10 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.2-10] Sec. 5. (a) The judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter as if an elected judge of the court.

(b) The judge of the court may, with the consent of the judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2, sit as a judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2 in any matter as if an elected judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2.

SECTION 660. IC 33-5-20.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.2-3] Sec. 6. The **Howard superior** court **No. 3** has the same jurisdiction as the Howard circuit court.

SECTION 661. IC 33-5-20.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-20.2-11] Sec. 7. The **Howard superior** court **No. 3** has a standard small claims and misdemeanor division.

Chapter 35. Huntington County

SECTION 662. IC 33-4-1-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-35] Sec. 1. ~~The county of~~ Huntington ~~shall constitute~~ **County constitutes** the fifty-sixth judicial circuit.

SECTION 663. IC 33-5-25.3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.3-1]Sec. 2. **(a)** There is established a court of record to be known as the Huntington superior court. ~~(referred to as "the court" in this chapter).~~

(b) Except as otherwise provided in this chapter, the Huntington superior court is a standard superior court as described in IC 33-29-1.

~~**(c)** The court may have a seal containing the words "Huntington Superior Court, Huntington County, Indiana".~~

(c) Huntington County comprises the judicial district of the court.

SECTION 664. IC 33-5-25.3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.3-7] Sec. 3. The **Huntington superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Huntington County courthouse in Huntington ~~Indiana,~~ or in ~~such~~ other places in the county as the Huntington County executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Huntington County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 665. IC 33-5-25.3-5, AS AMENDED BY P.L.124-2000,

SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.3-5] Sec. 4. (a) ~~The judge of the court shall appoint a bailiff and an official court reporter for the court.~~

~~(b)~~ **In addition to the personnel appointed under IC 33-29-1-5,** the **Huntington superior** court may appoint a referee and other personnel as the court determines necessary to facilitate and transact the business of the court.

~~(c)~~ **(b)** Salaries of the personnel described in ~~subsections (a) and (b)~~ **this section** shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Huntington circuit court. Their salaries shall be paid out of the treasury of Huntington County as provided by law.

SECTION 666. IC 33-5-25.3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.3-3] Sec. 5. The **Huntington superior** court has the same jurisdiction as the Huntington circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 667. IC 33-5-25.3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.3-11] Sec. 6. The **Huntington superior** court has a standard small claims and misdemeanor division.

Chapter 36. Jackson County

SECTION 668. IC 33-4-1-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-36] Sec. 36. ~~The county of~~ Jackson ~~shall be and constitute~~ **County constitutes** the fortieth judicial circuit. ~~of the State of Indiana.~~

SECTION 669. IC 33-5-25.4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.-4-1] Sec. 2. **(a)** There is established a court of record to be known as the Jackson superior court. ~~(referred to as "the court" in this chapter).~~

(b) The Jackson superior court is a standard superior court as described in IC 33-29-1.

~~The court may have a seal containing the words "Jackson Superior Court, Jackson County, Indiana".~~

(c) Jackson County comprises the judicial district of the court.

SECTION 670. IC 33-5-25.4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.-4-7] Sec. 3. The **Jackson superior** court **has one (1) judge who** shall hold ~~its~~ sessions in Seymour. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Jackson County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 671. IC 33-5-25.4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.-4-3] Sec. 4. The **Jackson superior** court has the same jurisdiction as the Jackson circuit

court.

SECTION 672. IC 33-5-25.4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.-4-11] Sec. 5. The **Jackson superior** court has a standard small claims and misdemeanor division.

Chapter 37. Jasper County

SECTION 673. IC 33-4-1-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-37] Sec. 1. (a) ~~The county of~~ Jasper ~~shall be and constitute~~ **County constitutes** the thirtieth judicial circuit. ~~of the State of Indiana.~~

(b) The Jasper circuit court has a standard small claims and misdemeanor division.

SECTION 674. IC 33-5-25.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.5-1] Sec. 2. **(a)** There is established a court of record to be known as Jasper superior court No. 1. ~~The court may have a seal containing the words "Jasper Superior Court No. 1, Jasper County, Indiana".~~

(b) Except as otherwise provided in this chapter, the Jasper superior court No. 1 is a standard superior court as described in IC 33-29-1.

(c) Jasper County comprises the judicial district of the court.

SECTION 675. IC 33-5-25.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.5-2] Sec. 3. **(a) IC 33-29-1-3 does not apply to this section.**

(b) The Jasper superior court has one (1) judge, who shall be elected at the general election every six (6) years in Jasper County. ~~His~~ **The judge's** term begins January 1 following ~~his~~ **the judge's** election and ends December 31 following the election of ~~his~~ **the judge's** successor.

SECTION 676. IC 33-5-25.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.5-11] Sec. 4. The **judge of the Jasper superior** court **No. 1** shall hold sessions in the Jasper County courthouse in Rensselaer ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Jasper County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Jasper County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 677. IC 33-5-25.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.5-17] Sec. 5. (a) The judge of Jasper superior court No. 1 shall adopt rules to provide for the administration of the Jasper superior court, including rules governing the following:

(1) Legal representation for indigents.

(2) Budgetary matters of the Jasper superior court.

(3) Operation of the probation department.

(4) Employment and management of court personnel.

(5) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The judge of the Jasper superior court shall file with the division of state court administration a copy of the rules adopted under this section.

SECTION 678. IC 33-5-25.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.5-18] Sec. 6. (a) **In addition to the personnel described in IC 33-29-1-5,** the judge of the **Jasper superior** court **No. 1** may, subject to the budget approved for the court by the fiscal body of Jasper County, employ personnel necessary for the proper administration of the court.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and

(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section [17] of this chapter.

SECTION 679. IC 33-5-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.5-3] Sec. 7. The Jasper superior court **No. 1** has the same jurisdiction as the Jasper circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 680. IC 33-5-25.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.5-16] Sec. 8. The Jasper superior court **No. 1** has a standard small claims and misdemeanor division.

Chapter 38. Jay County

SECTION 681. IC 33-4-1-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-38] Sec. 1. ~~The county of~~ Jay ~~in said State, shall constitute~~ **County constitutes** the fifty-eighth judicial circuit.

SECTION 682. IC 33-5-25.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.7-1] Sec. 2. There is established a court of record to be known as the Jay superior court. ~~(referred to as "the court" in this chapter). The court may have a seal containing the words "Jay Superior Court, Jay County, Indiana".~~

(b) The Jay superior court is a standard superior court as described in IC 33-29-1.

(c) Jay County comprises the judicial district of the court.

SECTION 683. IC 33-5-25.7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.7-7] Sec. 3. The **Jay superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Jay County courthouse in Portland ~~Indiana,~~ or in ~~such~~ other places in

the county as the Jay County executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Jay County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 684. IC 33-5-25.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.7-3] Sec. 4. The **Jay superior** court has the same jurisdiction as the Jay circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 685. IC 33-5-25.7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.7-11] Sec. 5. The **Jay superior** court has a standard small claims and misdemeanor division.

Chapter 39. Jefferson County

SECTION 686. IC 33-4-1-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-39] Sec. 1. ~~The counties of~~ Jefferson **County** and Switzerland ~~shall~~ **County** constitute the fifth judicial circuit. ~~of the State of Indiana.~~

SECTION 687. IC 33-5-25.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.8-1] Sec. 2. There is established a court of record to be known as the Jefferson superior court. ~~(referred to as "the court" in this chapter). The court may have a seal containing the words "Jefferson Superior Court, Jefferson County, Indiana".~~

(b) The Jefferson superior court is a standard superior court as described in IC 33-29-1.

(c) Jefferson County comprises the judicial district of the court.

SECTION 688. IC 33-5-25.8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.8-7] Sec. 3. ~~(a)~~ The **Jefferson superior** court **has one (1) judge who** shall hold the court's sessions in Madison.

~~(b) The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Jefferson County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 689. IC 33-5-25.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.8-3] Sec. 4. The **Jefferson superior** court is a court of ~~record and~~ general jurisdiction.

SECTION 690. IC 33-5-25.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.8-11] Sec. 5. The **Jefferson superior** court has a standard small claims and misdemeanor division.

Chapter 40. Jennings County

SECTION 691. IC 33-4-1-40 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-40] Sec. 1. (a) ~~The county of~~ Jennings ~~shall be and constitute~~ **County constitutes** the eighty-sixth judicial circuit. ~~of the State of Indiana.~~

(b) The Jennings circuit court has a standard small claims and misdemeanor division.

SECTION 692. IC 33-5-25.9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.9-1] Sec. 2. **(a)** There is established a court of record to be known as the Jennings superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Jennings Superior Court, Jennings County, Indiana".~~

(b) The Jennings superior court is a standard superior court as described in IC 33-29-1.

(c) Jennings County comprises the judicial district of the court.

SECTION 693. IC 33-5-25.9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.9-7] Sec. 3. The **Jennings superior** court **has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the Jennings County courthouse in Vernon; ~~Indiana;~~ or ~~in~~

(2) another place in the county as the Jennings County executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Jennings County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 694. IC 33-5-25.9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.9-3] Sec. 4. The **Jennings superior** court has the same jurisdiction as the Jennings circuit court.

SECTION 695. IC 33-5-25.9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-25.9-11] Sec. 5. The **Jennings superior** court has a standard small claims and misdemeanor division.

Chapter 41. Johnson County

SECTION 696. IC 33-4-1-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-41] Sec. 1. ~~The County of~~ Johnson ~~shall constitute~~ **County constitutes** the eighth judicial circuit. ~~of the State of Indiana.~~

SECTION 697. IC 33-4-1-41.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-41.1] Sec. 2. (a) The judges of the Johnson circuit and superior courts may jointly appoint one (1) full-time magistrate to serve both the circuit and superior courts.

(b) The magistrate continues in office until removed by the judges of the Johnson circuit and superior courts.

SECTION 698. IC 33-5-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-24-1] Sec. 3. (a) There are established three (3) ~~superior~~ courts **of record** ~~in and for the county of Johnson, Indiana each of which shall consist of one (1) judge, who shall hold the judge's office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. Every six (6) years, the voters of Johnson County shall elect at the general election a judge for each superior court.~~

~~(b) To be eligible to hold office as a judge of a superior court, a person must be:~~

~~(1) a resident of Johnson County;~~

~~(2) under the age of seventy (70) years at the time the judge takes office; and~~

~~(3) admitted to the bar of Indiana.~~

to be known as the Johnson superior court No. 1, Johnson superior court No. 2, and Johnson superior court No. 3.

(b) Except as otherwise provided in this chapter, each Johnson superior court is a standard superior court as described in IC 33-29-1.

(d) Johnson County comprises the judicial district of each court.

SECTION 699. IC 33-5-24-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-24-4] Sec. 4. (a) The Johnson superior court No. 1 and Johnson superior court No. 2 **each have one (1) judge who** shall hold sessions in the Johnson County courthouse, in ~~the city of~~ Franklin. ~~Indiana.~~

(b) The Johnson superior court No. 3 **has one (1) judge who** shall hold ~~its~~ sessions in a place to be determined and provided by the board of county commissioners of Johnson County. ~~Indiana.~~

~~(b) The board of county commissioners of Johnson County shall provide and maintain a suitable and convenient courtroom for each court, together with a suitable and convenient jury room and offices for the presiding judge and official court reporter. The board of county commissioners shall also provide all necessary furniture and equipment for the rooms and offices of each court and all necessary dockets, books, and records for each court.~~

SECTION 700. IC 33-5-24-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-24-9] Sec. 5. ~~The judge of the Johnson circuit court may, with the consent of the judge of the transferee court, transfer any action or proceeding from the circuit court to a superior court.~~ The judge of a **Johnson** superior court may, with the consent of the judge of ~~the circuit court or~~ another **Johnson** superior court, transfer any action or proceeding from the superior court ~~to the circuit court or~~ to the other superior court.

SECTION 701. IC 33-5-24-10 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-24-10] Sec. 6. ~~(a) The judge of the Johnson circuit court may, with the consent of the judge of a superior court, sit as a judge of the superior court in any matter as if the judge of the Johnson circuit court were an elected judge of the superior court.~~

~~(b) The judge of a superior court may, with the consent of the judge of the circuit court, sit as judge of the circuit court in any matter as if the judge of the superior court were an elected judge of the circuit court.~~

~~(c)~~ The judge of a **Johnson** superior court may, with the consent of the judge of another **Johnson** superior court, sit as the judge of the other superior court in any matter as if the judge of the superior court were an elected judge of the other superior court.

SECTION 702. IC 33-5-24-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-24-5] Sec. 7. ~~Except as provided in section 11 of this chapter, each~~ **Each** Johnson superior court ~~shall have~~ **has** concurrent jurisdiction, both original and appellate, with the Johnson circuit court ~~in Johnson County,~~ in all civil actions and proceedings at law and in equity, and in all criminal and probate matters, actions, and proceedings of which the Johnson circuit court has jurisdiction.

SECTION 703. IC 33-5-24-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-24-8] Sec. 8. The Johnson superior court has a standard small claims and misdemeanor division. [QUERY: Which one? All three?]

Chapter 42. Knox County

SECTION 704. IC 33-4-1-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-42] Sec. 1. ~~The county of~~ Knox ~~shall constitute~~ **County constitutes** the twelfth judicial circuit.

SECTION 705. IC 33-5-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-26-1] Sec. 2. (a) There ~~is~~ **are** established ~~a superior court in and for the county of Knox, Indiana, which has one (1) judge, who shall hold office for six (6) years, beginning on the first day of January after election, and ending December 31 following the election of the judge's successor. The court shall be known as Knox superior court No. 1. Every six (6) years, the voters of Knox County shall elect at the general election a judge for the superior court.~~

~~(b) An additional court~~ **two (2) courts** of record ~~is established~~ to be known as ~~the~~ **Knox superior court No. 1 and** Knox superior court No. 2.

(b) Except as otherwise provided in this chapter, each Knox superior court is a standard superior court as described in IC 33-29-1.

(c) Knox County constitutes the judicial district of the court.

~~The Knox superior court No. 2 has one (1) judge, who shall be elected at the general election every six (6) years in Knox County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.~~

~~(c) To be eligible to hold office as judge of either court, a person must:~~

~~(1) be a resident of Knox County;~~

~~(2) be less than seventy (70) years of age at the time of taking office; and~~

~~(3) be admitted to the practice of law in Indiana.~~

SECTION 706. IC 33-5-26-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-26-5] Sec. 3. ~~The~~ **Each** Knox superior ~~courts~~ **court has one (1) judge who** shall hold sessions in the Knox County courthouse in Vincennes ~~Indiana,~~ or at other places in the county as the county executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as necessary. The county fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 707. IC 33-5-26-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-26-14] Sec. 4. The judge of the Knox circuit court may, with the consent of the judge of a superior court, transfer any action or proceeding from the circuit court to the superior court. The judge of a superior court may, with the consent of the judge of the circuit or other superior court, transfer any action or proceeding from that superior court to the circuit or other superior court.

SECTION 708. IC 33-5-26-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-26-15] Sec. 5. The judge of a superior court may, with the consent of the judge of the circuit or other superior court, sit as a judge of the circuit or other superior court in any matter as if the judge of the superior court was an elected judge of the circuit or other superior court.

SECTION 709. IC 33-5-26-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-26-6 part] Sec. 6. (a) **Except as provided in subsection (b),** the Knox superior courts ~~are courts of record with~~ **have** the same jurisdiction as the Knox circuit court.

(b) The Knox superior courts have exclusive juvenile jurisdiction.

[33-5-26-6(c)] Sec. 7. ~~(c)~~ Each Knox superior court has a standard small claims and misdemeanor division.

Chapter 43. Kosciusko County

SECTION 710. IC 33-4-1-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-43] Sec. 1.

Kosciusko County constitutes the fifty-fourth judicial circuit. ~~of the State of Indiana shall be composed of the county of Kosciusko.~~

SECTION 711. IC 33-5-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-27-1 part] Sec. 2. **(a)** There is ~~hereby created~~ **established** a ~~superior~~ court ~~in and for the county of Kosciusko, Indiana, which shall consist~~ **of record, which consists** of three (3) judges, **to be known as the "Superior Court of Kosciusko County". The court shall have a seal containing the words "Superior Court No. 1 of Kosciusko County, Indiana", "Superior Court No. 2 of Kosciusko County, Indiana", or "Superior Court No. 3 of Kosciusko County, Indiana".**

(b) Except as otherwise provided in this chapter, the superior court of Kosciusko county is a standard superior court as described in IC 33-29-1.

(c) Kosciusko County comprises the judicial district of the court.

[33-5-27-1 part] Sec. 3. **(a) IC 33-29-1-3 does not apply to this section.**

(d) A judge of the superior court of Kosciusko county ~~who~~ shall hold office for a term of six (6) years, beginning on the first day of January after election, and until a successor is elected and qualified. Every six (6) years, the voters of Kosciusko County shall elect at the general election judges for the superior court.

SECTION 712. IC 33-5-27-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-27-11] Sec. 4. ~~(a)~~ The superior court of Kosciusko County shall hold its sessions in the Kosciusko County courthouse in ~~the city of~~ Warsaw ~~Indiana,~~ or at ~~such other~~ **another** place in ~~the city of~~ Warsaw ~~Indiana,~~ as the board of county commissioners may provide.

~~(b) The board of county commissioners of Kosciusko County, Indiana, shall provide and maintain suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for each judge and official court reporter and such other facilities as may be necessary. The board of county commissioners shall also provide all the necessary furniture and equipment for the rooms and offices of the court, and the county council shall appropriate sufficient funds therefor.~~

SECTION 713. IC 33-5-27-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-27-12] Sec. 5. ~~(a) The jury commissioners appointed by the judge of the circuit court shall serve as jury commissioners for the superior court.~~

~~(b) The clerk of the superior court and jury commissioners of the superior court shall, as provided by law, proceed to select a petit jury of the superior court at the same time and in the same manner as provided by law for the circuit court of the county.~~

~~(c) The officers in selecting and the clerk in issuing the process for~~

~~the jury and the sheriff in serving the process for the jury shall in all things be governed by law prescribed for the selection of petit jurors in the circuit court of the county.~~

~~(d)~~ **Notwithstanding IC 33-29-1-8,** the judges of the superior court **of Kosciusko County** may order on what day of the term the jurors ~~shall be~~ **are** summoned to attend the superior court and may order the selecting and summoning of other jurors for the superior court whenever necessary.

~~(e) The grand jury last previously selected for the circuit court shall also serve as the grand jury for the superior court from time to time as may be required.~~

SECTION 714. IC 33-5-27-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-27-3] Sec. 6. The superior court **of Kosciusko County** has the same jurisdiction as the circuit court.

SECTION 715. IC 33-5-27-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-27-2] Sec. 7. ~~(a) The superior court created by this chapter shall be known as the "Superior Court of Kosciusko County", and the county of Kosciusko shall be and constitute the judicial district of the court. The court shall be a court of record of general jurisdiction, and shall have a seal containing the words "Superior Court No. 1 of Kosciusko County, Indiana", "Superior Court No. 2 of Kosciusko County, Indiana", or "Superior Court No. 3 of Kosciusko County, Indiana".~~

~~(b)~~ Superior court No. 2 **of Kosciusko County** and superior court No. 3 **of Kosciusko County** each have a standard small claims and misdemeanor docket.

Chapter 44. LaGrange County

SECTION 716. IC 33-4-1-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-44] Sec. 1. ~~The County of~~ LaGrange ~~shall be and constitute~~ **County constitutes** the thirty-fifth judicial circuit. ~~of the State of Indiana.~~

SECTION 717. IC 33-5-27.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-27.5-1] Sec. 2. **(a)** There is established a court of record to be known as the LaGrange superior court. ~~(referred to as "the court" in this chapter). The court may have a seal containing the words "LaGrange Superior Court, LaGrange County, Indiana".~~

(b) The LaGrange superior court is a standard superior court as described in IC 33-29-1.

(c) LaGrange County comprises the judicial district of the court.

SECTION 718. IC 33-5-27.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-27.5-7] Sec. 3. The court **has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the LaGrange County courthouse in **the city of** LaGrange;

~~Indiana;~~ or ~~in~~

(2) such other places in the county as the LaGrange county executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The LaGrange County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 719. IC 33-5-27.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-27.5-3] Sec. 4. The **LaGrange superior** court has the same jurisdiction as the LaGrange circuit court.

SECTION 720. IC 33-5-27.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-27.5-11] Sec. 5. The **LaGrange superior** court has a standard small claims and misdemeanor division.

Chapter 45. Lake County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 721. IC 33-4-1-45, AS AMENDED BY P.L.196-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-45] Sec. 2. (a) ~~The county of~~ Lake ~~shall constitute~~ **County constitutes** the ~~31st~~ **thirty-first** judicial circuit.

(b) The judge of the Lake circuit court may appoint two (2) full-time magistrates under [IC 33-4-7] 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.

SECTION 722. IC 33-5-29.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-1] Sec. 3. There ~~shall be and~~ is ~~hereby~~ established a superior court in Lake County ~~Indiana (hereinafter~~ (referred to as "the court" **in this chapter).**

SECTION 723. IC 33-5-29.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-2] Sec. 4. The court shall be named ~~and styled~~ the superior court of Lake County.

SECTION 724. IC 33-5-29.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-3] Sec. 5. The court shall have a seal consisting of a circular disc containing the words "superior court of Lake County, Indiana" **and** "seal" and ~~such~~ **a** design as the court may determine, an impression of which shall be spread of record upon the order book of the court.

SECTION 725. IC 33-5-29.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-4] Sec. 6. (a) The ~~superior~~ court **has:** ~~within and for the county of Lake:~~

(1) ~~has~~ the same jurisdiction as the Lake circuit court in all civil and probate cases and matters whether original or appellate;

(2) ~~has~~ original exclusive jurisdiction of all felony cases;

(3) ~~has~~ original concurrent jurisdiction of all misdemeanor cases, infraction cases, and ordinance violation cases;

(4) ~~has such~~ appellate jurisdiction in criminal cases as is vested in the circuit court; and

(5) ~~has~~ original exclusive juvenile jurisdiction.

(b) 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.

SECTION 726. IC 33-5-29.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-5] Sec. 7. The court ~~shall be~~ **is** a court of record, and its judgments, decrees, orders, and proceedings ~~shall~~ have the same force and effect and shall be enforced in the same manner as those of the Lake circuit court.

SECTION 727. IC 33-5-29.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-6] Sec. 8. The court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the court ~~not repugnant to the laws of this state, and the rules of the Supreme Court of Indiana,~~ and ~~shall have~~ **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. The judges ~~shall have the full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and ~~to~~ give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 728. IC 33-5-29.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-7] Sec. 9. The court ~~shall have~~ **has** the same power to grant restraining orders, injunctions, and writs of ne exeat, 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 ~~now or may hereafter be~~ conferred on circuit courts or the judges ~~thereof~~ **of the circuit courts** in counties where there is no criminal court.

SECTION 729. IC 33-5-29.5-7.1, AS AMENDED BY P.L.196-1999, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-7.1] Sec. 10. (a) The judges of the criminal division may appoint two (2) full-time magistrates under [IC 33-4-7] 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 33-4-7] to serve the civil division. A magistrate appointed under this subsection continues in office until removed by the judges of the civil division.

SECTION 730. IC 33-5-29.5-7.2, AS AMENDED BY P.L.254-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-7.2] 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 33-4-7] 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 33-4-7.]

(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 33-4-7-9.1.] The state shall pay the salary set under [IC 33-4-7-9.1.]

SECTION 731. IC 33-5-29.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-8] Sec. 12. (a) The senior judge of each division may appoint the number of bailiffs, court reporters, probation officers, and other personnel as ~~in the opinion of~~ 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 ~~shall have~~ **has** the duties ~~as~~ the court ~~shall determine~~ **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.

SECTION 732. IC 33-5-29.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-9] Sec. 13. The ~~superior~~ court ~~of Lake County~~ shall hold continuous sessions in ~~such~~ places in Lake County as the court ~~may from time to time determine.~~ **periodically determines.** The board of county commissioners of Lake County shall provide and maintain suitable and convenient court rooms 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 ~~such~~ other facilities as may be necessary. The board of county commissioners of Lake County shall also provide all necessary furniture and equipment for rooms and offices of the court.

SECTION 733. IC 33-5-29.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-14] 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 ~~such~~ other books, papers, and records ~~as may~~ **are** be necessary for the court, and all books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

SECTION 734. IC 33-5-29.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-15] 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 ~~said~~ **the** court, and ~~such~~ **the** signature ~~shall be due~~ **constitutes** authentication of the actions of each of the judges in the court.

SECTION 735. IC 33-5-29.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-16] Sec. 16. All laws of the state and rules adopted by the supreme court ~~of Indiana~~ governing the circuit courts ~~of this state~~ apply to the superior court. However:

(1) ~~no~~ **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 ~~shall~~ **may not** receive ~~no~~ 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.

SECTION 736. IC 33-5-29.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-17] Sec. 17. Any party may appeal from any order or judgment of the court in any case where, by existing or future laws of this state, an appeal may be had from a similar order or judgment of the circuit court.

SECTION 737. IC 33-5-29.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-18] 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 ~~or may be,~~ provided for process issuing from the circuit court.

SECTION 738. IC 33-5-29.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-19] Sec. 19. (a) The court, by rules ~~duly~~ adopted by the court, shall designate one (1) of the judges as chief judge and shall fix the time that the chief judge ~~shall preside.~~ **presides.** The chief judge ~~shall be~~ **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 ~~shall serve.~~ **serves.**

(c) The senior judge of each division shall report to the chief judge as to how the division should best judicially operate.

SECTION 739. IC 33-5-29.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-20] Sec. 20. Whenever any action of the entire court is required, ~~then~~ the judges of the court shall act in concert. ~~In the event of~~ **If there is a** disagreement, ~~then~~ the decision of a majority of the judges ~~shall control.~~ **controls.** However, if the judges are evenly divided, the decision joined by the chief judge ~~shall control.~~ **controls.**

SECTION 740. IC 33-5-29.5-21, AS AMENDED BY P.L.196-1999, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-21] 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) ~~Before July 1, 2000, five (5) and, after June 30, 2000,~~ Seven (7)

judges comprise the civil division. Four (4) judges comprise the criminal division. ~~Before July 1, 2000, three (3) judges and, after June 30, 2000,~~ 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 other than the county 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 shall establish a rotation schedule providing for the rotation of judges through the various divisions. The rotation schedule may be used if a judge determines that an emergency exists. However, a senior judge of any division or a judge of the county 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.

SECTION 741. IC 33-5-29.5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-23] Sec. 22. The judge of the Lake circuit court may, with the consent of ~~this~~ **the** court, transfer any action, cause, or proceeding filed and docketed in the Lake circuit court to ~~this~~ **the** court by transferring all original papers and instruments filed in ~~such~~ **the** action, cause, or proceeding and without further transcript, ~~thereof~~ to be redocketed and disposed of as if originally filed with ~~this~~ **the** court.

SECTION 742. IC 33-5-29.5-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-24] Sec. 23. Any judge of ~~this~~ **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 ~~this~~ **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.

SECTION 743. IC 33-5-29.5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-25] Sec. 24. The judge of the Lake circuit court ~~shall be, at his discretion, authorized to~~ **may** sit as a judge of ~~this~~ **the** court, with the court's permission, in the civil division, without limitation and without any further order, in the same manner ~~and stead~~ as if ~~he were~~ **the circuit court judge were** a judge of ~~this~~ **the** court with all the rights and powers as if he were a duly appointed judge of ~~this~~ **the** court.

SECTION 744. IC 33-5-29.5-26 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-26] Sec. 25. (a) Unless the judge is a judge of the county division, 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~~ [xxx] of this chapter. Thereafter, unless rejected by the electorate, each ~~such~~ judge shall serve successive terms as provided in section [41(b)] of this chapter.

(b) A judge of the county division may serve a successive term if elected to serve a successive term under section ~~[42.5]~~ of this chapter.

SECTION 745. IC 33-5-29.5-27, AS AMENDED BY P.L.196-1999, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-27] Sec. 26. The superior court of Lake County ~~shall consist~~ **consists** of

~~(1) before July 1, 2000, thirteen (13) judges; and~~

~~(2) after June 30, 2000,~~ sixteen (16) judges

plus the Lake circuit court judge if the circuit court judge chooses to sit on the superior court of Lake County.

SECTION 746. IC 33-5-29.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-28] Sec. 27. (a) There is ~~hereby~~ established a judicial nominating commission for the superior court of Lake County, the functions, responsibilities, and procedures of which are set forth in sections ~~[29]~~ through ~~[38~~]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 this commission. The members of ~~this~~ **the** commission shall serve without compensation. However, the board of county commissioners of Lake County shall reimburse members of this commission for their actual expenses incurred in performing their duties.

SECTION 747. IC 33-5-29.5-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-29] Sec. 28. (a) The judicial nominating commission (hereafter called the commission) ~~shall consist~~ **consists** of nine (9) members, the majority of whom ~~shall~~ form a quorum. The chief justice of the ~~Indiana~~ supreme court (or a justice of the ~~Indiana~~ supreme court or judge of the ~~Indiana~~ court of appeals designated by the chief justice) shall be a member and shall act as chairman.

(b) Under sections ~~[31~~ and ~~32]~~ of this chapter, those admitted to the practice of law and residing in Lake County shall elect four (4) of their number to serve as members of the commission, subject to the following:

(1) At least one (1) attorney member must be a minority individual (as defined in IC 20-12-21.7-4).

(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 20-12-21.7-4).

(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 ~~shall~~ **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 ~~[30]~~ of this chapter, such appointment shall be made by the chief justice of the ~~Indiana~~ supreme court.

(d) No member of the commission, other than a judge or justice, shall hold any other elected public office. ~~No~~ **A** member ~~shall~~ **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 so long as the member is a member of the commission and for ~~a period of~~ 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 ~~shall be~~ **is** considered to have resigned from the commission.

SECTION 748. IC 33-5-29.5-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-30] Sec. 29. (a) ~~On or before September 15, 1995,~~ The Lake County board of commissioners shall appoint the four (4) nonattorney members of the commission. ~~The term of office for each of the commissioners shall commence October 1, 1995, and expires as follows:~~

~~(1) The term of the member appointed from the first district of the Lake County board of commissioners expires September 30, 1996.~~

~~(2) The term of the member appointed from the second district expires September 30, 1997.~~

~~(3) The term of the member appointed from the third district expires September 30, 1998.~~

~~(4) The term of the member appointed by the majority vote of the Lake County board of commissioners expires September 30, 1999.~~

(b) One (1) month ~~prior to~~ **before** the expiration of a term of office of a nonattorney commissioner, an appointment or reappointment shall be made in accordance with section ~~[29]~~ 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 ~~of~~ **after** the appointment.

(c) ~~Except as provided in subsection (a),~~ 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 ~~so~~ appointed ~~shall be~~ **is** for the unexpired term of the member whose vacancy the new member has filled.

SECTION 749. IC 33-5-29.5-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-31] Sec. 30. (a) ~~In September 1995, and thereafter~~ Those admitted to the practice of law and residing in Lake County ~~(hereinafter called~~ **(referred to in this _____ 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 ~~shall be~~ **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 the purpose of this section, shall be the first Tuesday in September, 1995, and every four (4) years thereafter. Thereafter, during the month ~~prior to~~ **before** the expiration of each ~~such~~ 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.

SECTION 750. IC 33-5-29.5-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-32] Sec. 31. The attorney members of the commission shall be elected by the following

process:

~~(a)~~ **(1)** The clerk of the Lake circuit court shall, at least ninety (90) days ~~prior to~~ **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 ~~prior to~~ **before** the election. ~~Said~~ **The** clerk shall secure a list of all ~~such~~ attorneys and their correct addresses from the clerk of the supreme court. ~~of the state of Indiana, state house.~~

~~(b)~~ **(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 ~~prior to~~ **before** the election.

~~(c)~~ **(3)** The clerk of the Lake circuit court shall prepare and print ballots containing the names and residence addresses of all attorney nominees whose written nominations, petitions, and written statements of consent have been received sixty (60) days ~~prior to~~ **before** the election.

~~(1)~~ **(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"

~~(2)~~ **(B)** The four (4) nominees receiving the most votes whose election does not conflict with the requirements of section [29(b)] of this chapter shall be elected.

~~(d)~~ **(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.

~~(e)~~ **(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.

~~(f)~~ **(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.

~~(g)~~ **(7)** Upon receiving the completed ballots and the accompanying certificate, the clerk shall insure 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.

~~(h)~~ **(8)** The clerk of the Lake circuit court, with the assistance of the Lake County election board, shall open and canvass all ballots after ~~four (4) o'clock~~ **4** p.m. on the day of election in the office of the clerk of the Lake circuit court. ~~No~~ Ballots received after ~~four (4) o'clock~~ **4** p.m. ~~are to~~ **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 ~~a period of~~ six (6) months, and the clerk shall permit no one to inspect them except upon an order of the ~~Indiana~~ supreme court.

~~(i)~~ **(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 ~~shall be deemed to have been~~ **is considered to be** elected.

SECTION 751. IC 33-5-29.5-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-33] Sec. 32. After the attorney members of the commission have been elected and after 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 ~~so~~ 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 ~~so~~ notify the chairman of the judicial nominating commission of the same.

SECTION 752. IC 33-5-29.5-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-34] Sec. 33. A member of the judicial nominating commission may serve until ~~his~~ **the member's** successor is appointed or elected. ~~No~~ **An** attorney commissioner or **a** nonattorney commissioner ~~shall be~~ **is not** eligible

for more than two (2) successive reelections or reappointments.

SECTION 753. IC 33-5-29.5-35, AS AMENDED BY P.L.196-1999, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-35] Sec. 34. (a) When a vacancy occurs in the superior court of Lake County, not including its county division, the clerk of ~~such~~ **the** court shall promptly notify the chairman and each member of the commission of ~~such~~ **the** vacancy. The chairman shall call a meeting of the commission within ten (10) days following ~~such~~ **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 ~~in any event~~ not later than sixty (60) days ~~from the time such~~ **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 ~~such~~ **the** notice of ~~such~~ **the** vacancy make its nominations and submit to the governor the names of three (3) persons nominated for ~~such~~ **the** forthcoming vacancy.

(b) Meetings of the commission shall be called by its chairman, or ~~in the event of the chairman's failure~~ **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 ~~such a place in~~ the Lake County government center in Crown Point ~~Indiana,~~ or ~~such other~~ **another** place, as the circuit court clerk of Lake County may arrange, at the direction of the chairman of the commission.

(d) The commission ~~shall~~ **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 ~~are required to~~ constitute a quorum at a meeting.

(f) The commission ~~shall have power to~~ **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.

SECTION 754. IC 33-5-29.5-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-36] Sec. 35. In selecting the three (3) nominees to be submitted to the governor, the commission shall comply with the following requirements:

~~(a)~~ **(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 the courts of Indiana.

~~(b)~~ **(2)** In abiding by the mandate in ~~subsection (a) of this section,~~ **subdivision (1),** the commission shall evaluate in writing each eligible individual on the following factors:

~~(1)~~ **(A)** Law school record, including any academic honors and achievements.

~~(2)~~ **(B)** Contribution to scholarly journals and publications, legislative drafting, and legal briefs.

~~(3)~~ **(C)** Activities in public service, including:

(i) writings and speeches concerning public or civic affairs ~~which~~ **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.

~~(4)~~ **(D)** Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

~~(5)~~ **(E)** Probable judicial temperament.

~~(6)~~ **(F)** Physical condition, including age, stamina, and possible habitual intemperance.

~~(7)~~ **(G)** Personality traits, including the exercise of sound judgment, ability to compromise and conciliate, patience, decisiveness, and dedication.

~~(8)~~ **(H)** Membership on boards of directors, financial ~~interest,~~ **interests,** and any other consideration ~~which~~ **that** might create conflict of interest with a judicial office.

~~(9)~~ **(I)** Any other pertinent information ~~which~~ **that** the commission feels is important in selecting the best qualified individuals for judicial office.

~~(c)~~ **(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.

~~(d)~~ **(4)** The political affiliations of any candidate ~~shall~~ **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.

~~(e)~~ **(5)** In determining which eligible candidates ~~shall be~~ **are** recommended to the governor, the commission shall consider that racial and gender diversity enhances the quality of the judiciary.

SECTION 755. IC 33-5-29.5-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-37] 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.

SECTION 756. IC 33-5-29.5-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-38] Sec. 37. 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, any name or names may be withdrawn for cause ~~deemed~~ **considered** by the commission to be of a substantial nature affecting the nominee's qualifications to hold office, and another name or names may be substituted ~~therefor~~ at any time before the appointment is made to fill the vacancy. If ~~any~~ **a** nominee dies or requests in writing that ~~his~~ **the nominee's** name be withdrawn, the commission shall nominate another person to replace ~~him.~~ **the nominee.** Whenever ~~there are existing at the same time~~ 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 ~~such~~ **the** vacancies. The commission may, ~~in its discretion and~~ before an appointment is made, withdraw the lists of nominations, change the names of any ~~such~~ persons nominated from one (1) list to another, and resubmit them as ~~so~~ changed, or may substitute a new name for any of those previously nominated.

SECTION 757. IC 33-5-29.5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-39] Sec. 38. **(a)** A vacancy occurring on the ~~superior~~ court ~~of Lake County~~ shall be filled by appointment of the governor from a list of three (3) nominees presented to ~~him~~ **the governor** by the judicial nominating commission.

If the governor ~~shall fail~~ **fails** to make an appointment from the list within sixty (60) days ~~from~~ **after** the day it is presented to ~~him,~~ **the governor,** the appointment shall be made by the chief justice or the acting chief justice of the ~~Indiana~~ supreme court from the same list, or altered list as provided for in section [38] of this chapter.

(b) The governor shall make all ~~such~~ appointments to the ~~superior~~ court ~~of Lake County~~ without regard to the political affiliation of any of the three (3) nominees submitted to ~~him.~~ **the governor.** ~~Further,~~ In the interest of justice, the governor shall consider only those qualifications of the nominees included in section [36] of this chapter.

SECTION 758. IC 33-5-29.5-39.5, AS ADDED BY P.L.196-1999, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-39.5] Sec. 39. A vacancy occurring on the superior court ~~of Lake County,~~ county division must be filled by appointment of the governor. In the interests of justice, the governor shall consider only those qualifications listed in section [36] of this chapter.

SECTION 759. IC 33-5-29.5-40, AS AMENDED BY P.L.196-1999, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-40] Sec. 40. An appointment by the governor or chief justice, as required by section [39 or 39.5] of this chapter, to the superior court of Lake County ~~shall take~~ **takes** effect immediately if a vacancy exists at the date of the appointment. The appointment ~~shall take~~ **takes** effect on the date the vacancy is created if ~~no such~~ **a** vacancy ~~yet exists~~ **does not exist** at the date of appointment.

SECTION 760. IC 33-5-29.5-41, AS AMENDED BY P.L.196-1999, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-41] Sec. 41. (a) Each judge appointed under section [39] of this chapter ~~shall serve~~ **serves** an initial term, which ~~shall commence~~ **begins** on the effective date of the appointment of ~~any such~~ **the** judge and ~~shall continue~~ **continues** through December 31 in the year of the general election that follows the expiration of two (2) years ~~from~~ **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 civil division, criminal division, and juvenile division shall serve successive six (6) year terms.

(c) The term of office of a judge of the county division of the ~~Lake~~ superior court is six (6) years. A judge appointed under section [39.5] of this chapter to fill a vacancy in the county division of the Lake superior court serves for the unexpired term of the vacating judge and until the appointed judge's successor is elected and qualified.

(d) Each six (6) year term ~~commences~~ **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 ~~shall continue~~ **continues** for six (6) years.

SECTION 761. IC 33-5-29.5-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-42] Sec. 42. (a) The question of the retention in office or rejection of each judge of the following divisions 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 ~~such~~ **the** judge:

(1) Civil division.

(2) Criminal division.

(3) Juvenile division.

(b) At ~~such~~ **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 3-11-2 and must state "Shall Judge (insert name) of the superior court of Lake County be retained in office for an additional term?".

(c) If ~~that~~ a majority of the ballots cast by the electors voting on any ~~such~~ question ~~shall be~~ **is** "Yes", the judge whose name appeared on ~~such~~ **the** question shall be approved for a six (6) year term ~~commencing on~~ **beginning** January 1 following the general election as provided in section [41(b)] of this chapter.

(d) If ~~that~~ a majority of the ballots cast by the electors voting on any ~~such~~ question ~~shall be~~ **is** "No", the judge whose name appeared on ~~such~~ **the** question shall be rejected. The office of the rejected judge ~~shall be~~ **is** vacant on January 1 following the rejection. The vacancy shall be filled by appointment by the governor ~~pursuant to~~ **under** section [39] 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 ~~prior to~~ **before** any ~~such~~ 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 ~~shall become~~ **becomes** vacant at the expiration of the term.

SECTION 762. IC 33-5-29.5-42.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-42.5] Sec. 43. A judge of the county division of the Lake superior court shall be elected under IC 3-10-2-11 by the electorate of Lake County.

SECTION 763. IC 33-5-29.5-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-43] Sec. 44. (a)

A judge of the superior court ~~of Lake County~~ may not during a term of office as judge of the ~~Lake~~ superior court do any of the following:

(1) Engage in the practice of law.

(2) Run for elective office, unless the elective office is that of judge of the county division of the Lake superior court.

(3) Take part in any political campaign, unless the judge is running for election as judge of the county division and the political campaign is conducted for that office.

(b) Failure to comply with this section ~~shall be~~ **is** sufficient cause for the commission on judicial qualifications ~~created~~ **established** by [IC 33-2.1-5] to recommend to the supreme court that ~~such~~ **the** judge be censured or removed.

(c) A political party ~~shall~~ **may** not directly or indirectly campaign for or against a judge subject to retention or rejection under this chapter.

SECTION 764. IC 33-5-29.5-71 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-29.5-71] Sec. 45. (a) The clerk of the Lake circuit court and the jury commissioners appointed by the Lake circuit court shall serve as jury commissioners for ~~this~~ **the** court. The issuing and servicing of process shall be governed by the procedure specified in [IC 33-4-5-2] for the circuit court. The selection of jurors may be made either:

(1) as specified for the circuit court in [IC 33-4-5-2;] or

(2) from a list of persons in the county who are at least eighteen (18) years of age and who hold a valid license issued by the bureau of motor vehicles under IC 9-24.

(b) ~~The~~ Jurors need not serve in any particular order in which they are drawn by the jury commissioners.

(c) Any judge of the court may order the selection and summoning of other jurors for the court whenever necessary. ~~The~~ Jurors summoned under this subsection shall serve the entire court and before any judge of the court where their service may be required.

(d) The contractor operating a license branch under IC 9-16 for Lake County shall, not later than January 1 of each year, provide to the jury commissioners of the Lake superior courts a list of all persons at least eighteen (18) years of age who hold a valid license issued by the bureau of motor vehicles.

Chapter 46. LaPorte County

SECTION 765. IC 33-4-1-46, AS AMENDED BY P.L.196-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-46] Sec. 1. (a) ~~The county of~~ LaPorte ~~shall constitute~~ **County constitutes** the thirty-second judicial circuit.

(b) The judges of the LaPorte circuit court and LaPorte superior court No. 4 may jointly appoint one (1) full-time magistrate under [IC 33-4-7] to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the LaPorte circuit court and LaPorte superior court No. 4.

SECTION 766. IC 33-5-31.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-31.1-1] Sec. 2. **(a)** There are established four (4) courts of record to be known as the LaPorte superior courts No. 1, No. 2, No. 3, and No. 4. ~~(referred to as the courts in this chapter). Each court may have a seal containing the words "LaPorte Superior Court (insert No. 1, No. 2, No. 3, or No. 4), LaPorte County, Indiana".~~

(b) Except as otherwise provided in this chapter, the LaPorte superior courts are standard superior courts as described in IC 33-29-1.

(c) LaPorte County comprises the judicial district of the courts.

SECTION 767. IC 33-5-31.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-31.1-2] Sec. 3. (a) **IC 33-29-1-3 does not apply to this section.**

(b) Each **LaPorte superior** court has one (1) judge, who shall be elected at the general election every six (6) years in LaPorte County. Each judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

~~(b)~~ **(c)** To be eligible to hold office as judge of any of the courts, a person must:

(1) be a resident of LaPorte County; and

(2) be admitted to the bar of Indiana.

SECTION 768. IC 33-5-31.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-31.1-7] Sec. 4. LaPorte superior court No. 1 shall hold its sessions in Michigan City, Indiana. LaPorte superior courts No. 2, No. 3, and No. 4 shall hold sessions in places in the county as the LaPorte County executive may provide. ~~The county executive shall provide and maintain suitable courtrooms and other rooms and facilities, including furniture and equipment, as may be necessary. The LaPorte County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 769. IC 33-5-31.1-12, AS AMENDED BY P.L.196-1999, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-31.1-12] Sec. 5. (a) The judges of the court may, by a vote of the majority of the judges, appoint one (1) full-time magistrate under [IC 33-4-7.]

(b) ~~The judges of the LaPorte circuit court and LaPorte superior court No. 4 may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.~~

~~(c)~~ The magistrate appointed under subsection (a) continues in office until removed by the vote of a majority of the judges of the court.

~~(d) The magistrate appointed under subsection (b) continues in~~

~~office until removed by the judges of the LaPorte circuit court and LaPorte superior court No. 4.~~

SECTION 770. IC 33-5-31.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-31.1-9] Sec. 6. **Notwithstanding IC 33-29-1-9,** the judge of the LaPorte circuit court may, with the consent of the judge of the receiving court, transfer any action or proceeding from the circuit court to any of the **LaPorte superior** courts. The judge of any of the **LaPorte superior** courts may, with consent of the judge of the circuit or another **LaPorte** superior court, transfer any action or proceeding from the **LaPorte superior** court to the circuit court or to another **LaPorte** superior court. However, a judge of LaPorte superior courts No. 3 and No. 4 may not transfer any action or proceeding docketed in the small claims and misdemeanor division to the LaPorte circuit court or LaPorte superior court No. 1 or No. 2.

SECTION 771. IC 33-5-31.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-31.1-3] Sec. 7. The courts have the same jurisdiction as the LaPorte circuit court.

SECTION 772. IC 33-5-31.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-31-.1-11] Sec. 8. LaPorte superior courts No. 3 and No. 4 each have a standard small claims and misdemeanor division.

Chapter 47. Lawrence County

SECTION 773. IC 33-4-1-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-47] Sec. 1. ~~The county of~~ Lawrence ~~shall be and constitute~~ **County constitutes** the eighty-first judicial circuit. ~~of the State of Indiana.~~

SECTION 774. IC 33-5-32.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-32.5-1] Sec. 2. **(a)** There ~~shall be and~~ is ~~hereby~~ established a ~~superior~~ court **of record in** Lawrence County ~~Indiana, which shall consist of~~ **to be known as the Lawrence superior court.**

(b) The Lawrence superior court has two (2) judges. ~~Each judge shall hold office for six (6) years and until the judge's successor shall have been elected and qualified.~~

(c) Except as otherwise provided in this chapter, the Lawrence superior court is a standard superior court as described in IC 33-29-1.

SECTION 775. IC 33-5-32.5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-32.5-23] Sec. 3. **(a) IC 33-29-1-3 does not apply to this section.**

(b) A judge ~~for this~~ **of the Lawrence superior** court shall be elected every six (6) years at the general election. The term of office ~~shall begin~~ **begins** the first day of January following ~~his~~ **the judge's** election and ~~continue~~ **continues** for six (6) years and until ~~his~~ **the**

judge's successor is elected and qualified.

SECTION 776. IC 33-5-32.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-32.5-8] Sec. 4. The **Lawrence** superior court ~~of Lawrence County~~ shall hold its sessions in the Lawrence County courthouse in ~~the city of~~ Bedford ~~Indiana,~~ or in ~~such other~~ **another** convenient and suitable place as the board of county commissioners of Lawrence County ~~shall provide. Said board of county commissioners shall provide and maintain a suitable and convenient courtroom for the holding of the court, with a suitable and convenient jury room and offices for the judge and official court reporter, which rooms shall be ready for occupancy by January 1, 1974, and the county council shall meet and appropriate all necessary funds therefor.~~ **provides.**

SECTION 777. IC 33-5-32.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-32.5-6] Sec. 5. Each judge of the court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the court. ~~not repugnant to the laws of this state, and shall have 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. Each judge shall have the full authority to administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and to give all necessary certificates for the authentication of the records and proceedings in the court.~~

SECTION 778. IC 33-5-32.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-32.5-18] Sec. 6. **In addition to the personnel appointed under IC 33-29-1-5,** each judge ~~shall have the right to~~ **may** appoint ~~such~~ additional officers and personnel ~~as may be~~ necessary for the proper administration of ~~his~~ **the judge's** duties as judge of the **Lawrence superior** court.

SECTION 779. IC 33-5-32.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-32.5-15] Sec. 7. ~~Prior to the commencement of any term of the court, at the time and place provided by law, the clerk of the court and jury commissioners appointed by the judge of the circuit court of said county as provided by law, shall proceed to select a petit jury, in the manner as is now provided by law, to serve at the next ensuing term of court, and the officers in selecting, and the clerk, in issuing process for, the jury, and the sheriff in serving the same, shall in all things be governed by the rules and regulations prescribed for the selection of petit jurors in the circuit court. Provided, That~~ **Notwithstanding IC 33-29-1-8,** the **Lawrence superior** court may order on what day of the term ~~the~~ jurors ~~shall be~~ **are** summoned to attend the court. The judge of the **Lawrence superior** court may order the selecting and summoning of other jurors

~~for the court whenever the same may be~~ **when** necessary.

SECTION 780. IC 33-5-32.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-32.5-4 part] Sec. 8. (a) Except as provided in subsection (b), the **Lawrence** superior court ~~for the county~~ has original and concurrent jurisdiction with the **Lawrence** circuit court in the following:

(1) All civil actions and proceedings at law and in equity.

(2) Actions for divorce, separation, or annulment of marriage.

(3) All criminal cases and proceedings.

(b) The **Lawrence** superior court does not have the following:

(1) Jurisdiction of a juvenile court.

(2) Jurisdiction in probate and other matters provided for by IC 29-1. However, the court has concurrent jurisdiction with the circuit court as to civil actions by or against personal representatives.

(c) The **Lawrence** superior court ~~for the county~~ has original and concurrent jurisdiction in all appeals or reviews from boards of county commissioners, or other executive or administrative agencies or inferior courts, and other appellate jurisdiction vested in the circuit court.

SECTION 781. IC 33-5-32.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-32.5-4(d)] Sec. 9. ~~(d)~~ The **Lawrence** superior court has a standard small claims and misdemeanor division.

Chapter 48. Madison County

SECTION 782. IC 33-4-1-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-48] Sec. 1. ~~The County of~~ Madison ~~shall constitute~~ **County constitutes** the fiftieth judicial circuit.

SECTION 783. IC 33-5-33.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-33.1-1 part] Sec. 2. **(a)** There is ~~hereby~~ established a ~~superior~~ court **of record** in Madison County ~~Indiana, (referred to as the "superior court" in this chapter) which~~ **to be known as the Madison superior court**.

(b) The Madison superior court ~~shall consist of~~ **has** three (3) judges.

(c) Except as otherwise provided in this chapter, the Madison superior court is a standard superior court as described in IC 33-29-1.

[33-5-33.1-1 part] Sec. 3. **(a) IC 33-29-1-3 does not apply to this section.**

(b) A judge of the Madison superior court ~~who~~ shall hold ~~their~~ office for six (6) years and until ~~their successors have~~ **the judge's successor has** been elected and qualified. ~~In addition to the three (3) judges, the judge of the Madison Circuit Court (referred to as the~~

~~"circuit court" in this chapter) may sit as a judge of the superior court as hereinafter provided in this chapter.~~

SECTION 784. IC 33-5-33.1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-33.1-23] Sec. 4. The **Madison** superior court may designate by rule one (1) of the judges as chief judge and fix the time ~~he~~ **the chief judge** ~~shall preside.~~ **presides.** The chief judge shall be responsible for the operation and conduct of the court.

SECTION 785. IC 33-5-33.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [3305033.109] Sec. 5. The **Madison superior** court shall hold its sessions in the Madison County courthouse or its replacement in ~~the city of~~ Anderson. ~~The board of county commissioners of Madison County shall provide and maintain in the courthouse suitable and convenient courtrooms, jury rooms and offices for the judges, secretaries and official court reporters, and other facilities as necessary. The board of county commissioners shall provide all the necessary furniture and equipment for the rooms and offices of the court.~~

SECTION 786. IC 33-5-33.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-33.1-6] Sec. 6. The judges of the **Madison superior** court may make rules for conducting the business of the court. ~~and shall have 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. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.~~

SECTION 787. IC 33-5-33.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-33.-1-8] Sec. 7. **In addition to the personnel appointed under IC 33-29-1-5,** the **Madison superior** court may appoint ~~bailiffs, court reporters,~~ probation officers and ~~such~~ other personnel, including an administrative officer, ~~as~~ necessary to transact the business of the court. The salaries of the personnel shall be fixed and paid as provided by law. However, if the salaries of any of the personnel are not provided by law, the amount and time of payment of ~~such~~ **the** salaries 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 be entered of record. The officers and persons ~~so~~ appointed shall perform ~~such~~ duties as ~~are~~ prescribed by the court. Personnel appointed by the court serve at the pleasure of the court.

SECTION 788. IC 33-5-33.1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-33.1-17] Sec. 8. ~~The clerk of the circuit court and the jury commissioners appointed by the circuit court shall serve as jury commissioners for the superior court.~~

~~However, jurors need not serve in any particular order in which they are drawn by the jury commissioners. In addition,~~ **Notwithstanding IC 33-29-1-8,** any judge of the **Madison superior** court may order the selection and summoning of ~~other~~ jurors for the court whenever necessary. ~~and they~~ **Jurors** shall serve the entire court and before any judge of the court where their service may be required.

SECTION 789. IC 33-5-33.1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-33.1-24] Sec. 9. (a) The **Madison** superior court shall provide by rule that all cases filed in the court be assigned to a particular docket, such as civil, probate, criminal, juvenile, or small claims. The responsibility for processing the cases on each of these dockets shall be assigned to the judges of the court under the rules adopted by the court.

(b) The chief judge may reassign the dockets of the court from one (1) judge to another and may alter the number of judges responsible for the various dockets where efficiency ~~so~~ demands.

SECTION 790. IC 33-5-33.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-33.1-4] Sec. 10. **(a)** The **Madison superior** court ~~within and for the county, shall have~~ **has** original and appellate jurisdiction, concurrent and coextensive with the **Madison** circuit court in all civil, probate, and criminal cases and jurisdiction concurrent and coextensive with the circuit court in all cases of appeal from ~~boards~~ **the board** of county commissioners and city courts.

(b) The **Madison** superior court ~~shall have~~ **has** original and exclusive juvenile jurisdiction.

Chapter 49. Marion County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 791. IC 33-4-1-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-49] Sec. 2. Marion County ~~shall constitute~~ **constitutes** the ~~19th~~ **nineteenth** judicial circuit.

SECTION 792. IC 33-5.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-1-1] ~~Sec. 1. The definitions in this chapter apply throughout this article.~~

SECTION 793. IC 33-5.1-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-1-2] Sec. 3. **As used in this chapter,** "city-county council" refers to the Indianapolis, Marion County city-county council.

SECTION 794. IC 33-5.1-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-1-3] Sec. 4. **As used in this chapter,** "clerk" refers to the clerk of the Marion superior court.

SECTION 795. IC 33-5.1-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-1-4] Sec. 5. **As**

used in this chapter, "court" refers to the Marion superior court.

SECTION 796. IC 33-5.1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-1] Sec. 6. (a) There is established a superior court in Marion County. ~~Indiana.~~ The court consists ~~of:~~

~~(1) thirty-one (31) judges, until January 1, 2001, and~~

~~(2)~~ thirty-two (32) judges. ~~after December 31, 2000.~~

(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

(1) a resident of Marion County; and

(2) an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) During the term of office, a judge of the court must remain a resident of Marion County.

SECTION 797. IC 33-5.1-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-2] Sec. 7. The court shall be named ~~and styled~~ **the** Marion superior court.

SECTION 798. IC 33-5.1-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-3] Sec. 8. The court shall have a seal consisting of a circular disk containing the words, "Marion Superior Court", "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.

SECTION 799. IC 33-5.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-4] Sec. 9. The court has the following jurisdiction:

(1) Concurrent and coextensive jurisdiction with the Marion circuit court in all cases and upon all subject matters, including civil, criminal, juvenile, probate, and statutory cases and matters, whether original or appellate.

(2) Original and exclusive jurisdiction in all matters pertaining to the following:

(A) The probate and settlement of decedents' estates, trusts, and guardianships.

(B) The probate of wills.

(C) Proceedings to resist the probate of wills.

(D) Proceedings to contest wills.

(E) The appointment of guardians, assignees, executors, administrators, and trustees.

(F) The administration and settlement of:

(i) estates of protected persons (as defined in IC 29-3-1-13) and deceased persons;

(ii) trusts, assignments, adoptions, and surviving partnerships; and

(iii) all other probate matters.

(3) Original jurisdiction of all violations of Indiana law. Whenever jurisdiction is by law conferred on a small claims court, the court has the appellate jurisdiction provided by law.

(4) Original and exclusive juvenile jurisdiction.

SECTION 800. IC 33-5.1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-5] Sec. 10. The court is a court of record. The court's judgments, decrees, orders, and proceedings have the same effect and shall be enforced in the same manner as those of the circuit court.

SECTION 801. IC 33-5.1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-6] Sec. 11. (a) The court ~~has full power to~~ **may** adopt rules for conducting the business of the court. Except as provided in subsection (b), in all matters action of the court may only be taken by a vote of a majority of the judges sitting at the time the vote is taken.

(b) Action of the court to remove the presiding judge or either associate presiding judge may only be taken by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken.

(c) The court has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempts, and enforcement of the court's orders. The judges have ~~full~~ authority to administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and to give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 802. IC 33-5.1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-7] Sec. 12. The court ~~has the power to~~ **may** do the following:

(1) Grant restraining orders, injunctions, and writs of ne exeat.

(2) Issue writs of habeas corpus.

(3) Appoint receivers, masters, and commissioners to:

(A) convey real property;

(B) grant commissions for the examination of witnesses; and

(C) appoint other officers necessary to transact the business of the court.

SECTION 803. IC 33-5.1-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-8] Sec. 13. (a) Each judge of the court shall be elected for a term of six (6) years that ~~shall commence~~ **begins** January 1 after the year of the judge's election and ~~continue~~ **continues** through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A candidate for judge shall run at large for the office of judge of the court and not as a candidate for judge of a particular room or division of the court.

(b) At the primary election, a political party may nominate candidates for judge of the court as follows:

~~(1) Beginning with the primary election held in 1996 and every six (6) years thereafter, a political party may nominate not more than eight (8) candidates for judge of the court.~~

~~(2)~~ Beginning with the primary election held in 2000 and every six (6) years thereafter, a political party may nominate not more than nine (9) candidates for judge of the court.

The candidates shall be voted on at the general election. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(c) The names of the party candidates nominated and properly certified to the Marion County election board, along with the names of other candidates who have qualified, shall be placed on the ballot at the general election in the form prescribed by IC 3-11-2. All persons eligible to vote at the general election may vote for candidates for judge of the court as follows:

~~(1) Beginning with the 1996 general election and every six (6) years thereafter, for fifteen (15) candidates for judge of the court.~~

~~(2)~~ Beginning with the 2000 general election and every six (6) years thereafter, for seventeen (17) candidates for judge of the court.

(d) The candidates for judge of the court receiving the highest number of votes shall be elected to the vacancies. The names of the candidates elected as judges of the court shall be certified to the county election board as provided by law.

SECTION 804. IC 33-5.1-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-9] Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate three (3) of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section [6] of this chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. Any or all of the members elected to the executive committee may be reelected. Of the three (3) judges elected to the executive committee, not more than two (2) may be members of the same political party.

(b) One (1) of the three (3) judges elected to the executive committee shall be elected as presiding judge and two (2) of the three

(3) judges elected to the executive committee shall be elected as associate presiding judges. Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The executive committee shall perform ~~such~~ other duties as determined by rules of the court.

(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following:

(1) Civil.

(2) Criminal.

(3) Probate.

(4) Juvenile.

(d) The work of each division shall be allocated by the rules of the court.

(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section [6] of this chapter. The court shall keep appropriate records of rules, orders, and assignments of the court.

SECTION 805. IC 33-5.1-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-10] Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners,

and clerks. In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order book must be kept for the court in which shall be entered all special rules, proceedings, and similar matters. During an absence or vacation of a judge who is a member of the executive committee, the senior superior court judge shall act for the absent member, if necessary.

SECTION 806. IC 33-5.1-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-11] Sec. 16. (a) An appointed probate hearing judge or probate commissioner shall be vested by the judge of the probate division with suitable powers for the handling of all probate matters of the court, including the following:

(1) Fixing of all bonds.

(2) Auditing accounts of estates, guardianships, and trusts.

(3) Acceptance of reports, accounts, and settlements filed in the court.

(4) Appointment of personal representatives, guardians, and trustees.

(5) Probating wills.

(6) Taking or hearing evidence on or concerning matters described in this subsection or any other probate, guardianship, or trust matters in litigation before the court.

(7) ~~Enforcement of~~ **Enforcing** court rules.

(8) Making reports to the court concerning the judge's or commissioner's doings in the proceedings described in this subsection, including reports concerning the commissioner's findings and conclusions regarding the proceedings.

However, all matters handled by a hearing judge or commissioner under this subsection are under the final jurisdiction and decision of the judge of the probate division.

(b) A juvenile referee appointed by the judge of the juvenile division shall have all suitable powers for the handling of the juvenile matters of the court, including the following:

(1) Fixing of bonds.

(2) Taking and hearing evidence on or concerning juvenile matters in litigation before the court.

(3) ~~Enforcement of~~ **Enforcing** court rules.

(4) Making reports to the court concerning the juvenile referee's handling of proceedings of the juvenile division of the court.

However, all matters handled by a juvenile referee under this subsection are under final jurisdiction and decision of the judge or judges of the juvenile division designated by rules of the court.

(c) A bail commissioner ~~shall have all suitable powers for the fixing of~~ **may fix** bonds, including the following:

(1) Determining whether an individual is to be released on the individual's own recognizance in criminal cases and proceedings.

(2) Making reports to the court concerning the bail commissioner's activities.

All matters handled by a bail commissioner under this subsection are under the final jurisdiction and decision of the judge or judges of the criminal division as designated by rules of the court.

(d) For any of the purposes specified in this section a probate hearing judge, probate commissioner, referee, or bail commissioner ~~has the power to~~ **may** do the following:

(1) Summon witnesses to testify before the probate hearing judge, probate commissioner, referee, or bail commissioner.

(2) Administer oaths and take acknowledgments in connection with duties.

(3) Administer oaths and take acknowledgments generally.

(e) A master commissioner appointed by the court under this section has the powers and duties prescribed for a magistrate under [IC 33-4-7-4 through IC 33-4-7-8.] A master commissioner shall report the findings in each of the matters before the master commissioner in writing to the judge or judges of the division to which the master commissioner is assigned or as designated by rules of the court.

SECTION 807. IC 33-5.1-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-12] Sec. 17. (a) The court shall hold sessions in the city-county building in ~~the city of~~ Indianapolis ~~Indiana,~~ and in other places in Marion County as the court ~~may determine.~~ **determines.**

(b) The city-county council shall provide and maintain in the building and at other places in Marion County as the court may determine suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, and offices for the judges, other court officers and personnel, and other facilities as ~~may be~~ **are** necessary. The city-county council shall also provide all necessary furniture and equipment for rooms and offices of the court.

SECTION 808. IC 33-5.1-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-13] Sec. 18. The clerk, under the direction of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books, papers, and records as ~~may be~~ **are** necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

SECTION 809. IC 33-5.1-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-14] Sec. 19. The court shall maintain a single order book for each division or room of

the court, which order book may be signed on behalf of the court by the judge of that division or room of the court. The signature of the judge authenticates the actions of the court.

SECTION 810. IC 33-5.1-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-15] Sec. 20. All laws of Indiana and rules adopted by the supreme court ~~of Indiana~~ governing the circuit court in matters of pleadings, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court ~~are applicable~~ **apply** to and govern the court.

SECTION 811. IC 33-5.1-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-16] Sec. 21. (a) The clerk of the Marion circuit court and the jury commissioners appointed by the Marion circuit court shall serve as clerk and as jury commissioners for the court and shall be governed in all respects as provided by law.

(b) Jurors need not serve in the order in which the jurors are drawn by the jury commissioners.

(c) Any judge of the court may order the selection and summoning of other jurors for the court whenever other jurors may be necessary. ~~The~~ Jurors shall serve the entire court and before any judge of the court where the jurors' services may be required.

SECTION 812. IC 33-5.1-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-17] Sec. 22. A party may appeal from an order or a judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

SECTION 813. IC 33-5.1-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-17] Sec. 23. The process of the court ~~shall~~ **must** have the seal affixed and process must be attested, directed, served, and returned, and must be in the form as provided for process issuing from the circuit court.

SECTION 814. IC 33-5.1-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-19] Sec. 24. The judge of the Marion circuit court may, with the consent of the court acting through the superior court presiding judge under rules adopted by the court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in that action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the court.

SECTION 815. IC 33-5.1-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-20] Sec. 25. The

presiding judge may, with the consent of the judge of the Marion circuit court and under rules adopted by the court, transfer any action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the Marion circuit court.

SECTION 816. IC 33-5.1-2-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-21] Sec. 26. The judge of the Marion circuit court ~~at the judge's discretion,~~ may sit as a judge of the court, with the court's permission, in all matters pending before the court, without limitation and without any further order, in the same manner as a judge of the court with all the rights and powers of an elected judge of the court.

SECTION 817. IC 33-5.1-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-22] Sec. 27. Each judge, before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

> "I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of judge of the superior court of Marion County to the best of my ability.".

The oath shall be filed with the clerk of the county.

SECTION 818. IC 33-5.1-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-23] Sec. 28. The court shall take judicial notice of all matters of which courts of general jurisdiction of ~~this state~~ **Indiana** are required to take judicial notice, and the court shall also take judicial notice of all general ordinances of each city or municipality located in the county.

SECTION 819. IC 33-5.1-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-24] Sec. 29. (a) When an appeal is taken from the court in criminal cases or proceedings under IC 34-28-5 (or IC 34-4-32 before its repeal), the amount of costs charged shall be certified as a part of the transcript and shall be charged as part of the costs in the court to which the appeal or proceeding is taken. The costs are in addition to any other clerk's service fee required by law.

(b) All costs charged in the court hearing or in the court trying an appeal shall be charged and adjudged upon the hearing or trial in the appeal against a defendant who is convicted or who pleads guilty.

(c) In an appeal under this section the defendant shall pay a transcript fee of thirty-five dollars ($35) before the appeal may be transferred from the superior court.

SECTION 820. IC 33-5.1-2-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-25] Sec. 30. (a) A judge remains qualified to hold office as long as the judge:

(1) remains fair and impartial in judicial functions;

(2) maintains a high standard of morality in dealings, public and

private;

(3) remains physically and mentally capable of performing all the functions and duties of the office of judge; and

(4) continues to reside in Marion County.

(b) Complaints against a judge shall be forwarded to the commission on judicial qualifications as provided in [IC 33-2.1-5] by any judge of the superior court.

(c) A judge of the court must retire upon becoming seventy-five (75) years of age. If the judge wishes to retire before the judge's term has ended or upon reaching the mandatory retirement age, the judge shall provide written notice to the presiding judge of the court. The judge shall continue to hold office until a successor has been appointed and qualified.

(d) Whenever a vacancy occurs in the court by death, removal, retirement, or for any other reason, the governor shall appoint a successor judge who serves the balance of the term of the vacating judge. The successor judge must be a member of the same political party as the judge who is to be succeeded.

SECTION 821. IC 33-5.1-2-26, AS AMENDED BY P.L.196-1999, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-26] Sec. 31. (a) The presiding judge may appoint one (1) full-time magistrate under [IC 33-4-7.]

(b) A magistrate appointed under this section may only hear criminal proceedings.

(c) The magistrate continues in office until removed by the presiding judge.

SECTION 822. IC 33-5.1-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-2-27] Sec. 32. (a) In addition to the magistrate appointed under section [26] of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint four (4) full-time magistrates under [IC 33-4-7.]

(b) Not more than two (2) of the magistrates appointed under this section may be of the same political party.

(c) The magistrates continue in office until removed by the vote of a majority of the judges of the court.

(d) A party to a superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. Upon a request made under this subsection by either party, the magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the superior court judge.

SECTION 823. IC 33-5.1-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-3-1] Sec. 33. (a) The executive committee elected under [IC 33-5.1-2-9] shall employ a court

administrator to administer the business activities of the court. A court administrator is subject to rules of the court and oversight by the executive committee.

(b) The salary of the court administrator shall be set by the executive committee but may not be more than eighty percent (80%) of the salary of a superior court judge.

SECTION 824. IC 33-5.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5.1-3-2] Sec. 34. (a) The clerk of the superior court shall furnish the following:

(1) All blanks, forms, and papers required for use in all criminal cases and in all civil actions involving actions by a city or town for violations of municipal penal ordinances.

(2) All books, papers, stationery, furniture, and other equipment and supplies necessary for keeping the records of the proceedings in all rooms of the superior court and for the transaction of all business of the court.

(3) Necessary computerization of court records.

(b) The materials required under this section shall be furnished at the expense of the county.

(c) The presiding judge of the court, by an order entered on the court records signed by the presiding judge, shall determine and prescribe the forms of the following:

(1) All summonses, notices, subpoenas, warrants, affidavits, complaints, writs, and all other papers and anything else required to be used in the cases relating to violations of criminal statutes or municipal ordinances.

(2) All other books, records, papers, and documents to be used by the court and by the officers of the court and the prosecutors.

In the absence of an order under this subsection, those charged with the duty of prosecuting cases involving either criminal offenses or the violation of municipal ordinances may adopt, change, order, and use all necessary forms and instruments as conform substantially to the practice and procedure applicable.

Chapter 50. Marshall County

SECTION 825. IC 33-4-1-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-50] Sec. 1. ~~The county of~~ Marshall ~~shall be and constitute~~ **County constitutes** the seventy-second judicial circuit. ~~of the State of Indiana.~~

SECTION 826. IC 33-5-35.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-35.5-1] Sec. 2. ~~(a)~~ There ~~is~~ **are** created ~~a~~ **two (2) courts of record to be known as the Marshall** superior court No. 1 ~~in and for the county of Marshall, Indiana, which has one (1) judge, who shall hold office for a term of six (6) years, beginning on January 1 after election and ending December 31 following the election of the judge's successor. Every six (6) years,~~

~~the voters of Marshall County shall elect at the general election a judge for the superior court No. 1.~~

~~(b) There is also created a~~ **and the Marshall** superior court No. 2. ~~in Marshall County, which has one (1) judge, who shall hold office for a term of six (6) years, beginning on January 1 after election and ending December 31 following the election of the judge's successor. Every six (6) years, the voters of Marshall County shall elect at the general election a judge for the superior court No. 2.~~

~~(c) To be eligible to hold office as judge of either court, a person must:~~

~~(1) be a resident of Marshall County;~~

~~(2) be less than seventy (70) years of age at the time of taking office; and~~

~~(3) be admitted to the practice of law in Indiana.~~

SECTION 827. IC 33-5-35.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-35.5-2] ~~Sec. 2. The superior courts created by this chapter shall be referred to in this chapter as "the courts".~~

(a) The Marshall superior courts are standard superior courts as described in IC 33-29-1.

(b) Marshall County comprises the judicial district of each court. ~~Each court shall be a court of record of general jurisdiction, and may have a seal containing the words "Superior Court of Marshall County, Indiana".~~

SECTION 828. IC 33-5-35.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-35.5-11] Sec. 3. The **Marshall** superior court No. 1 **has one (1) judge who** shall hold ~~its~~ sessions in the Marshall County courthouse in ~~the city of~~ Plymouth. ~~Indiana.~~ The **Marshall** superior court No. 2 **has one (1) judge who** shall hold sessions in a place in the county as the board of county commissioners may provide. ~~The board of county commissioners of Marshall County shall provide and maintain suitable and convenient courtrooms and other rooms and facilities as may be necessary. The board of county commissioners shall also provide all necessary furniture, equipment, offices and facilities. The county council shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 829. IC 33-5-35.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-35.5-3] Sec. 4. The **Marshall superior** courts have the same jurisdiction as the Marshall circuit court.

SECTION 830. IC 33-5-35.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-35.5-18] Sec. 5. The **Marshall** superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 51. Martin County

SECTION 831. IC 33-4-1-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-51] Sec. 1. (a) ~~The county of~~ Martin ~~shall be and constitute~~ **County constitutes** the ninetieth judicial circuit. ~~of the State of Indiana.~~

(b) The Martin circuit court has a standard small claims and misdemeanor division.

Chapter 52. Miami County

SECTION 832. IC 33-4-1-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-52] Sec. 1. ~~That the County of~~ Miami ~~shall constitute~~ **County constitutes** the fifty-first judicial circuit. ~~of Indiana.~~

SECTION 833. IC 33-5-35.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-35.8-1] Sec. 2. **(a)** There is established a court of record to be known as the Miami superior court. ~~(referred to as "the court" in this chapter).~~

~~The court may have a seal containing the words "Miami Superior Court, Miami County, Indiana".~~

(b) The Miami superior court is a standard superior court as described in IC 33-29-1.

(c) Miami County comprises the judicial district of the court.

SECTION 834. IC 33-5-35.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-35.8-11] Sec. 3. The court **has one (1) judge who** shall hold ~~its~~ sessions in the Miami County courthouse in Peru ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Miami County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Miami County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 835. IC 33-5-35.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-35.8-3] Sec. 4. The **Miami superior** court has the same jurisdiction as the Miami circuit court.

SECTION 836. IC 33-5-35.8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-35.8-16] Sec. 5. The Miami superior court has a standard small claims and misdemeanor division.

Chapter 53. Monroe County

SECTION 837. IC 33-4-1-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-53] Sec. 1. (a) ~~The county of~~ Monroe ~~shall be and constitute~~ **County constitutes** the tenth judicial circuit. ~~of the state of Indiana.~~

(b) There are seven (7) judges of the Monroe circuit court.

SECTION 838. IC 33-4-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-10-1] Sec. 2. (a) The Monroe circuit court is a court of general jurisdiction and shall maintain the following dockets:

(1) Small claims.
(2) Minor offenses and violations.
(3) Criminal.
(4) Juvenile.
(5) Civil.
(6) Probate.

(b) The assignment of judges of the court to the dockets specified in subsection (a) shall be by rule of the court.

SECTION 839. IC 33-4-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-10-3] Sec. 3. The judges of the Monroe circuit court shall select from among themselves a presiding judge of the court.

SECTION 840. IC 33-4-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-10-4] Sec. 4. Whenever any action of the entire court is required, including selection of a presiding judge under section [3] of this chapter and adoption of rules under section [6] of this chapter, ~~then~~ the judges of the court ~~will~~ **shall** act in concert. If the judges disagree, the decision of the majority of the judges ~~shall control.~~ **controls.** If the judges are evenly divided, the decision joined by the presiding judge ~~shall control.~~ **controls.**

SECTION 841. IC 33-4-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-10-5] Sec. 5. In accordance with rules adopted by the judges of the court under section 6 of this chapter, the presiding judge shall do the following:

(1) Ensure that the court operates efficiently and judicially under rules adopted by the court.
(2) Annually submit to the fiscal body of Monroe County a budget for the court, including amounts necessary for:
    (A) the operation of the circuit's probation department;
    (B) the defense of indigents; and
    (C) maintaining an adequate law library.
(3) Make the appointments or selections required of a circuit or superior court judge under the following statutes:
    IC 8-4-21-2
    IC 11-12-2-2
    IC 16-22-2-4
    IC 16-22-2-11
    IC 16-22-7
    IC 20-4-1
    IC 20-4-8
    IC 20-4-15-2

IC 20-5-20-4
IC 20-5-23-1
IC 20-14-10-10
IC 21-5-11-8
IC 21-5-12-8
IC 36-9
IC 36-10.

(4) Make appointments or selections required of a circuit or superior court judge by any other statute, if the appointment or selection is not required of the court because of an action before the court.

SECTION 842. IC 33-4-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-10-6] Sec. 6. (a) The judges of the court shall adopt rules to provide for the administration of the court, including rules governing the following:

(1) Allocation of case load.
(2) Legal representation for indigents.
(3) Budgetary matters of the court.
(4) Operation of the probation department.
(5) Term of administration of the presiding judge.
(6) Employment and management of court personnel.
(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The court shall file with the division of state court administration a copy of the rules adopted under this section.

SECTION 843. IC 33-4-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-10-7] Sec. 7. (a) Each judge of the court may, subject to the budget approved for the court by the fiscal body of Monroe County, employ personnel necessary for the proper administration of the court.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and
(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section [6] of this chapter.

SECTION 844. IC 33-4-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-10-8] Sec. 8. (a) The court may appoint a court administrator subject to the budget approved for the court by the fiscal body of Monroe County.

(b) A court administrator appointed under this section is subject to the rules concerning employment and management of court personnel adopted by the court under section [6] of this chapter.

Chapter 54. Montgomery County

SECTION 845. IC 33-4-1-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-54] Sec. 1. **Montgomery County constitutes** the twenty-second judicial circuit. ~~of the State of Indiana shall be composed of the county of Montgomery.~~

SECTION 846. IC 33-5-36.6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-36.6-1] Sec. 2. (a) There is established a court of record to be known as **the** Montgomery superior court. ~~The court may have a seal containing the words "Montgomery Superior Court of Montgomery County, Indiana".~~

(b) **The Montgomery superior court is a standard superior court as described in IC 33-29-1.**

(c) Montgomery County comprises the judicial district of the court.

SECTION 847. IC 33-5-36.6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-36.6-7] Sec. 3. The court **has one (1) judge who** shall hold sessions in the Montgomery County courthouse in Crawfordsville ~~Indiana,~~ or in ~~such~~ other places in the county as the Montgomery County executive may provide. ~~The county executive shall provide and maintain suitable courtrooms and other rooms and facilities, including furniture and equipment, as may be necessary. The Montgomery County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 848. IC 33-5-36.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-36.6-3] Sec. 4. The **Montgomery superior** court has the same jurisdiction as the Montgomery circuit court.

Chapter 55. Morgan County

[NEW] **Sec. 1. The following do not apply to this chapter:**

(1) IC 33-29-1-3.

(2) IC 33-29-1-4.

(3) IC 33-29-1-8.

(4) IC 33-29-1-9.

(5) IC 33-29-1-10.

[QUERY: These provisions are not in the Morgan superior court chapter now. Why not?]

SECTION 59. IC 33-4-1-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-55] Sec. 2. ~~The county of~~ Morgan ~~shall constitute~~ **County constitutes** the fifteenth judicial circuit.

SECTION 849. IC 33-5-37-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37-1 part] Sec. 3. There is ~~hereby created~~ **established** a **court of record to be known as the Morgan** superior court. ~~in and for the county of Morgan, Indiana, which shall consist of~~

SECTION 850. IC 33-5-37-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.1-2] Sec. 4. ~~The superior court created by the provisions of this chapter shall be known as the "Morgan Superior Court," and the county of~~

(a) Except as otherwise provided in this chapter, the Morgan superior court is a standard superior court as described in IC 33-29-1.

(b) Morgan ~~shall constitute~~ **County constitutes** the judicial district of ~~said~~ **the** court. ~~The court shall be a court of record and general jurisdiction, and shall have a seal containing the words "Morgan Superior Court of Morgan County, Indiana."~~

[33-5-37-1 part] Sec. 5. **(a) The Morgan superior court has** three (3) judges. Each judge ~~shall hold~~ **holds** office for a term of six (6) years beginning on the first day of January after election and until the judge's successor is elected and qualified.

(b) Every six (6) years, the voters of Morgan County shall elect at the general election the judges for the superior court.

SECTION 851. IC 33-5-37-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37-4] Sec. 6. The Morgan Superior Court shall hold its sessions in the Morgan County courthouse in ~~the city of~~ Martinsville ~~Indiana. and the board of county commissioners of Morgan County shall provide and maintain in the courthouse a suitable and convenient courtroom for the holding of said court, together with a suitable and convenient jury room and offices for the judge and the official court reporter. The board of county commissioners shall provide all necessary furniture and equipment for the rooms and offices of the court, and all necessary dockets, books and records for the court. The county council shall make the necessary appropriations from the general fund of the county for the purpose of carrying out the provisions of this chapter.~~

SECTION 852. IC 33-5-37-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37-6] Sec. 7. (a) Each judge of the Morgan superior court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the Morgan superior court. ~~not repugnant to the laws of the state of Indiana or the rules of the supreme court of the state of Indiana.~~

(b) Each judge ~~shall have~~ **has** all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce ~~his~~ **the judge's** orders.

(c) Each judge of the court ~~shall have full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgments of deeds, ~~and to~~ give all necessary certificates for the authentication of records and proceedings of ~~said~~ **the** court, and ~~to~~ make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

SECTION 853. IC 33-5-37-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37-7] Sec. 8. The judges of the Morgan circuit and **Morgan** superior ~~courts~~ **court** may jointly appoint one (1) full-time magistrate under [IC 33-4-7.] The magistrate continues in office until removed by the judges of the circuit and superior courts.

SECTION 854. IC 33-5-37-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37-5(a)] Sec. 9. ~~(a)~~ The Morgan superior court ~~shall have~~ **has** concurrent jurisdiction, both original and appellate, with the Morgan circuit court in all civil actions and proceedings at law and in equity and in all criminal and probate matters, actions, and proceedings of which the Morgan circuit court has jurisdiction. However, the Morgan circuit court and one (1) judge of the Morgan superior court have exclusive jurisdiction in all juvenile matters, actions, and proceedings.

[33-5-37-5(b)] Sec. 10. ~~(b)~~ The Morgan superior court has a standard small claims and misdemeanor division.

Chapter 56. Newton County

SECTION 855. IC 33-4-1-56 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-56] Sec. 1. (a) ~~The county of~~ Newton ~~shall be and constitute~~ **County constitutes** the seventy-ninth judicial circuit. ~~of the State of Indiana.~~

(b) The Newton circuit court has a standard small claims and misdemeanor division.

SECTION 856. IC 33-5-37.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.2-1] Sec. 2. **(a)** There is established a court of record to be known as the Newton superior court. ~~(referred to as "the court" in this chapter). The court may have a seal containing the words "Newton Superior Court, Newton County, Indiana".~~

(b) The Newton superior court is a standard superior court as described in IC 33-29-1.

(c) Newton County comprises the judicial district of the court.

SECTION 857. IC 33-5-37.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.2-2] Sec. 3. (a) **IC 33-29-1-3 does not apply to this section.**

(b) The **Newton superior** court has one (1) judge, who shall be elected at the general election every six (6) years in Newton County. ~~His~~ **The judge's** term begins January 1 following ~~his~~ **the judge's** election and ends December 31 following the election of ~~his~~ **the judge's** successor.

~~(b)~~ **(c)** To be eligible to hold office as judge of the **Newton superior** court, a person must:

(1) be a resident of Newton County; and

(2) be admitted to the bar of Indiana.

SECTION 858. IC 33-5-37.2-11 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.2-11] Sec. 4. The **Newton superior** court shall hold its sessions in the Newton County courthouse in Kentland ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Newton County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Newton County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 859. IC 33-5-37.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.2-3] Sec. 5. The **Newton superior** court has the same jurisdiction as the Newton circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 860. IC 33-5-37.2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.2-16] Sec. 6. The Newton superior court has a standard small claims and misdemeanor division.

Chapter 57. Noble County

SECTION 861. IC 33-4-1-57 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-57] Sec. 1. ~~The County of~~ Noble ~~shall be and constitute~~ **County constitutes** the thirty-third judicial circuit. ~~of the State of Indiana.~~

SECTION 862. IC 33-5-37.5-1, AS AMENDED BY P.L.196-1999, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.5-1] Sec. 2. **(a)** There is established a court of record to be known as the Noble superior court. ~~(referred to as "court" in this chapter). The court may have a seal containing the words "Noble Superior Court, Noble County, Indiana".~~

(b) The Noble superior court is a standard superior court as described in IC 33-29-1.

(c) Noble County comprises the judicial district of the courts.

SECTION 863. IC 33-5-37.5-10, AS AMENDED BY P.L.196-1999, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.5-10] Sec. 3. ~~A~~ **The Noble superior** court **has two (2) judges who** shall hold ~~its~~ sessions in the Noble County courthouse in Albion ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Noble County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Noble County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 864. IC 33-5-37.5-3, AS AMENDED BY P.L.196-1999, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.5-3] Sec. 4. ~~A~~ **The Noble superior** court has

the same jurisdiction as the Noble circuit court.

SECTION 865. IC 33-5-37.5-15, AS ADDED BY P.L.196-1999, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.5-15] Sec. 5. The **Noble superior** court has a standard small claims and misdemeanor division.

Chapter 58. Ohio County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 866. IC 33-4-1-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-58] Sec. 2. ~~The counties of~~ Dearborn **County** and Ohio ~~shall~~ **County** constitute the seventh judicial circuit. ~~of the State of Indiana.~~

SECTION 867. IC 33-5-37.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-1] Sec. 3. **(a)** There is established a court of record to be known as the Ohio and Switzerland superior court. ~~(referred to as "the court" in this chapter).~~

(b) The court may have a seal containing the words "Ohio and Switzerland Superior Court, Ohio and Switzerland Counties, Indiana".

(c) Ohio and Switzerland counties comprise the judicial district of the court.

SECTION 868. IC 33-5-37.7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-2] Sec. 3. The **Ohio and Switzerland superior** court has one (1) judge, who shall be elected at the general election every six (6) years in Ohio and Switzerland counties. ~~His~~ **The judge's** term begins January 1 following his election and ends December 31 following the election of his successor.

SECTION 869. IC 33-5-37.7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-4] Sec. 4. The judge of the **Ohio and Switzerland superior** court has the same powers relating to the conduct of the business of the court as a judge of **a** circuit court under [IC 33-4-2.]

SECTION 870. IC 33-5-37.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-5] Sec. 5. The judge of the **Ohio and Switzerland superior** court is entitled to the salary set out in [IC 33-13-12.] The salary shall be paid in the same manner as the salary of a circuit court judge, and the ~~portion~~ **part** of the salary to be paid by the counties shall be paid by Ohio and Switzerland counties in equal ~~portions.~~ **amounts.**

SECTION 871. IC 33-5-37.7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-11] Sec. 6. The **Ohio and Switzerland superior** court shall hold its sessions in the courthouse in Rising Sun ~~Indiana,~~ and in Vevay ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Ohio or Switzerland County may provide. Each board of county

commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as ~~may be~~ necessary. Each county council shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.

SECTION 872. IC 33-5-37.7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-9] Sec. 7. The judge of the **Ohio and Switzerland superior** court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for a circuit court. Their salaries shall be paid monthly out of the treasuries of Ohio and Switzerland counties as provided by law.

SECTION 873. IC 33-5-37.7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-10] Sec. 8. The clerk of the **Ohio and Switzerland superior** court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

SECTION 874. IC 33-5-37.7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-12] Sec. 9. The **Ohio and Switzerland superior** superior court shall, during each calendar year, appoint one (1) resident of Ohio County and one (1) resident of Switzerland County to act as jury commissioners for the superior court. These jury commissioners shall:

(1) be appointed by a judge of the superior court;

(2) be qualified to act as jury commissioners; and

(3) prepare and draw the jury for the superior court;

in the same manner as is required for jury commissioners of circuit courts in Ohio and Switzerland counties. The clerks of the circuit courts of Ohio and Switzerland counties and the sheriffs of Ohio and Switzerland counties shall issue and serve process for the superior court in relation to jury selection and summoning in the same manner as for those circuit courts. The superior court may order the time when jurors must attend court, and may order the selection and summoning of other jurors for the superior court whenever necessary.

SECTION 875. IC 33-5-37.7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-14] Sec. 10. The judge of the circuit courts in Ohio or Switzerland counties may, with the consent of the judge of the **Ohio and Switzerland superior** court, transfer any action or proceeding from the circuit court that originated in Ohio or Switzerland County to the **Ohio and Switzerland superior** court. The judge of the **Ohio and Switzerland superior** court may, with consent of the judge of such a circuit court, transfer any action or proceeding from the **Ohio and Switzerland superior** court to the circuit court in the county where that action or proceeding originated.

SECTION 876. IC 33-5-37.7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.-7-15] Sec. 15. The judge of the circuit court in Ohio or Switzerland County may, with the consent of the judge of the **Ohio and Switzerland superior** court, sit as a judge of the court in any matter over which ~~he~~ **the judge** would have had jurisdiction as circuit court judge, as if ~~he~~ **the judge** was an elected judge of the court. The judge of the **Ohio and Switzerland superior** court may, with consent of the judge of such a circuit court, sit as a judge of a circuit court in Ohio or Switzerland County in any matter over which ~~he~~ **the judge** would have jurisdiction as superior judge, as if ~~he~~ **the judge** was an elected judge of that circuit court.

SECTION 877. IC 33-5-37.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-3] Sec. 14. The **Ohio and Switzerland superior** court has the same jurisdiction as a circuit court under [IC 33-4-3 and IC 33-4-4.]

SECTION 878. IC 33-5-37.7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-16] Sec. 15. The Ohio and Switzerland superior court has a standard small claims and misdemeanor division.

Chapter 59. Orange County

SECTION 879. IC 33-4-1-59 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-59] Sec. 1. ~~The county of~~ Orange ~~shall be and constitute~~ **County constitutes** the eighty-seventh judicial circuit. ~~of the State of Indiana.~~

SECTION 880. IC 33-5-37.8-1, AS ADDED BY P.L.45-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.8-1] Sec. 2. **(a)** There is established a court of record to be known as the Orange superior court. ~~(referred to as "the court" in this chapter). The court may have a seal containing the words "Orange Superior Court, Orange County, Indiana".~~

(b) Except as otherwise provided in this chapter, the Orange superior court is a standard superior court as described in IC 33-29-1.

(c) Orange County comprises the judicial district of the court.

SECTION 881. IC 33-5-37.8-7, AS ADDED BY P.L.45-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.8-7] Sec. 3. The **Orange superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Paoli Office Complex in Paoli ~~Indiana,~~ or in ~~such~~ other places in the county as the Orange county executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Orange County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 882. IC 33-5-37.8-5, AS ADDED BY P.L.45-2000,

SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.8-5] Sec. 4. ~~The judge of the court shall appoint a bailiff and an official court reporter for the court.~~ **In addition to the personnel that may be appointed under IC 33-29-1-5,** the judge **of the Orange superior** may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries shall be fixed in the same manner as the salaries of the personnel for the Orange circuit court. Their salaries shall be paid monthly out of the treasury of Orange County as provided by law. Personnel appointed under this section continue in office until removed by the judge of the court.

SECTION 883. IC 33-5-37.8-3, AS ADDED BY P.L.45-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.8-3] Sec. 5. (a) Except as provided in subsection (b), the **Orange superior** court has the same jurisdiction as the Orange circuit court.

(b) The Orange circuit court has exclusive juvenile jurisdiction.

SECTION 884. IC 33-5-37.8-11, AS ADDED BY P.L.45-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.8-11] Sec. 6. The **Orange superior** court has a standard small claims and misdemeanor division.

Chapter 60. Owen County

SECTION 885. IC 33-4-1-60 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-60] Sec. 1. (a) ~~The county of~~ Owen ~~shall be and constitute~~ **County constitutes** the seventy-eighth judicial circuit. ~~of the State of Indiana.~~

(b) The Owen circuit court has a standard small claims and misdemeanor division.

Chapter 61. Parke County

SECTION 886. IC 33-4-1-61 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-61] Sec. 1. (a) ~~The county of~~ Parke ~~be and shall constitute~~ **County constitutes** the sixty-eighth judicial circuit. ~~of the State of Indiana.~~

(b) The Parke circuit court has a standard small claims and misdemeanor division.

Chapter 62. Perry County

SECTION 887. IC 33-4-1-62 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-62] Sec. 2. (a) ~~The county of~~ Perry ~~shall be and constitute~~ **County constitutes** the seventieth judicial circuit. ~~of the State of Indiana.~~

(b) The Perry circuit court has a standard small claims and misdemeanor division.

Chapter 63. Pike County

SECTION 888. IC 33-4-1-63 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-63] Sec. 1. (a) ~~The~~

~~county of~~ Pike ~~shall be and constitute~~ **County constitutes** the eighty-third judicial circuit. ~~of the State of Indiana.~~

(b) The Pike circuit court has a standard small claims and misdemeanor division.

Chapter 64. Porter County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 889. IC 33-4-1-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-64] Sec. 2. ~~The county of~~ Porter ~~shall constitute~~ **County constitutes** the sixty-seventh judicial circuit.

SECTION 890. IC 33-5-38-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-1] Sec. 3. (a) There is established a ~~superior~~ court ~~in~~ **of record to be known as** Porter ~~County, Indiana, which shall consist of~~ **superior court. The Porter superior court has** five (5) judges, who ~~shall~~ hold ~~their~~ office for six (6) years, beginning on the first day of January after their election and until their successors are elected and qualified. ~~if they shall so long behave well.~~ Every six (6) years the voters of Porter County shall elect at the general election the judges for the superior court.

(b) The judges of the **Porter** superior court established under this section are designated as follows:

(1) Two (2) judges are judges of the superior court, superior division.

(2) Three (3) judges are judges of the superior court, county division.

SECTION 891. IC 33-5-38-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-3] Sec. 4. (a) The **Porter superior** court's superior division shall have a seal consisting of a circular disk containing the words "Porter Superior Court, Superior Division", an impression of which shall be spread of record upon the order book of the court.

(b) The **Porter superior** court's county division shall have a seal consisting of a circular disk containing the words "Porter Superior Court, County Division", an impression of which shall be imprinted upon the order book of the court.

SECTION 892. IC 33-5-38-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-4] Sec. 5. (a) Except as provided in subsection (b), the **Porter superior** court for the county has the following jurisdiction:

(1) Original, appellate, concurrent, and coextensive jurisdiction with the circuit court in all civil cases, criminal cases, and probate matters.

(2) Concurrent and coextensive jurisdiction with the circuit court in all cases of appeal from boards of county commissioners and

all other appellate jurisdiction vested in the circuit court.

(3) Concurrent and coextensive jurisdiction in all matters of probate and the settlement of decedents' estates, trusts, and guardianships.

(4) Jurisdiction over all other subject matters actionable in the circuit court.

(b) All matters in which a child is alleged to be a delinquent child or a child in need of services exclusively resides in the jurisdiction of the circuit court of the county.

SECTION 893. IC 33-5-38-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-6] Sec. 6. The judges of the **Porter superior** court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the court ~~not repugnant to the laws of this state,~~ and ~~shall~~ have 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. The judges ~~shall have the full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and ~~to~~ give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 894. IC 33-5-38-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-7] Sec. 7. The judges of the **Porter superior** court ~~shall~~ have the same power[, in term time or in vacation,][QUERY: NECESSARY?] to grant restraining orders, injunctions, and writs of ne exeat, to issue writs of habeas corpus and of mandate and prohibition, 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 ~~now or may hereafter be~~ conferred on circuit courts or the judges ~~thereof.~~ **of circuit courts.**

SECTION 895. IC 33-5-38-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-8] Sec. 8. (a) The Porter superior court, superior division, shall hold its sessions in the Porter County courthouse in ~~the city of~~ Valparaiso. ~~Indiana.~~

(b) One (1) judge of the Porter superior court, county division, shall hold sessions of the court in Valparaiso and the other two (2) judges shall hold sessions of the court principally in Portage Township and may sit periodically in Westchester Township in the discretion of the judges in Porter County.

(c) The board of county commissioners of Porter County shall provide and maintain suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for the judges, secretaries, and official court reporters, and such other facilities as may be necessary. The board of county

commissioners shall also provide all the necessary furniture and equipment for the rooms and offices of the court. The county council shall appropriate sufficient funds therefor.

SECTION 896. IC 33-5-38-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-13] Sec. 9. The clerk, under the direction of ~~the~~ **a Porter superior court** judge, shall provide order books, judgment dockets, execution dockets, fee-books and ~~such~~ other books, papers, and records as ~~may be~~ necessary for the court. ~~and~~ All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

SECTION 897. IC 33-5-38-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-14] Sec. 10. (a) The **Porter superior** court shall maintain a single order book for the Porter superior court, superior division, ~~which order book~~ **that** may be signed on behalf of the court by any of the sitting judges of the superior division. ~~and such~~ **A judge's** signature ~~shall be due~~ **constitutes** authentication of the actions of each of the judges in the court.

(b) The **Porter superior** court shall maintain an order book for the judge of the Porter superior court, county division, located in Valparaiso and a separate order book for the judge of the Porter superior court, county division, located in Portage Township. The signature of a judge of the Porter superior court, county division, ~~shall be~~ **constitutes** authentication of the actions of the judge taken on behalf of the superior court holding sessions in that location.

SECTION 898. IC 33-5-38-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-15] Sec. 11. Each judge of the **Porter superior** court shall appoint a bailiff for the court whose salary shall be fixed by the court and paid as ~~now~~ provided by law.

SECTION 899. IC 33-5-38-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-16] Sec. 12. Each judge of the **Porter superior** court shall appoint a court reporter whose duties, salary, and term shall be regulated in the same manner as the court reporter of the circuit court.

SECTION 900. IC 33-5-38-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-21] Sec. 13. The process of the **Porter superior** court ~~shall~~ **must** have the seal affixed and be attested, directed, served, and returned, and be in the form as is ~~or may be,~~ provided for process issuing from the circuit court.

SECTION 901. IC 33-5-38-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-22] Sec. 14. Each **Porter superior** judge ~~shall have the right to~~ **may** appoint ~~such~~ additional officers and personnel ~~as may be~~ necessary for the proper administration of ~~his~~ **the judge's** duties as judge of the court.

SECTION 902. IC 33-5-38-23 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-23] Sec. 15. The **Porter superior** court by rules ~~duly~~ adopted by the court, shall designate one (1) of the judges as presiding judge and fix the time ~~he~~ **the judge** ~~shall preside. and said~~ **presides. The presiding** judge ~~shall be~~ **is** responsible for the operation and conduct of the court and for seeing that ~~said~~ **the** court ~~shall~~ **operates** efficiently and judicially. ~~operate. In case no~~ **If an** agreement is **not** reached, the judge with the most seniority as a judge of a court of record shall act as presiding judge.

SECTION 903. IC 33-5-38-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-24] Sec. 16. Whenever any action of the entire **Porter superior** court is required, ~~then~~ the judges of the court ~~will~~ **shall** act in concert. ~~In the event of~~ **If there is a** disagreement, the decision of the majority of the judges ~~shall control.~~ **controls.** ~~Provided,~~ However, ~~That~~ in the absence of ~~such~~ **a** majority, the decision of the presiding judge ~~shall control.~~ **controls.**

SECTION 904. IC 33-5-38-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-25] Sec. 17. The **Porter superior** court shall, when ~~in its opinion~~ it ~~shall be~~ **believes it is** necessary, appoint ~~such~~ additional personnel for the proper administration of the court, including but not limited to an administrative officer who shall operate under the jurisdiction of the presiding judge.

SECTION 905. IC 33-5-38-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-26] Sec. 18. The judge of the circuit court may, with the consent of ~~this~~ **the** court transfer any action, cause, or proceeding filed and docketed in the circuit court to this court by transferring all original papers and ~~and~~ instruments filed in ~~such~~ **the** action, cause, or proceeding without further transcript ~~thereof~~ to be redocketed and disposed of as if originally filed with this court.

SECTION 906. IC 33-5-38-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-27] Sec. 19. Any judge of the **Porter** superior court may, with the consent of the judge of the **Porter** circuit court, transfer any action, cause, or proceeding filed and docketed in the superior court to the 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 superior court. However, a judge of the **Porter** superior court, county division, may not transfer any action or proceeding docketed in the small claims and misdemeanor division to the **Porter** circuit court or to the **Porter** superior court, superior division.

SECTION 907. IC 33-5-38-28 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-28] Sec. 20. The judge of the Porter circuit court ~~shall be,~~ **may** ~~at his discretion and~~ with the **Porter superior** court's permission, ~~authorized to~~ sit and ~~to~~ act as a judge of ~~this~~ **the Porter superior** court in all matters pending before ~~this~~ **the superior** court, without limitation and without any further order, in the same manner and stead as if ~~he were~~ **the judge were** a judge of ~~this~~ **the Porter superior** court, with all the rights and powers as if ~~he were a duly~~ **the judge were an** elected judge of ~~this~~ **the Porter superior** court, including the right to act as presiding judge and otherwise participate in the organization and administration of ~~this~~ **the superior** court.

SECTION 908. IC 33-5-38-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-30] Sec. 21. The judges of the Porter superior court ~~as created by this chapter~~ shall be commissioned by the governor in the same manner as a judge of the circuit court and any vacancy occurring in the office of judge of ~~such~~ **the superior** court shall be filled by appointment by the governor in the same manner as vacancies in the office of the judge of **the** circuit court.

SECTION 909. IC 33-5-38-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-32] Sec. 22. The Porter superior court, county division, located in Valparaiso, has a standard small claims and misdemeanor division and the Porter superior court, county division, located in Portage Township has a standard small claims and misdemeanor division.

SECTION 910. IC 33-5-38-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38-33] Sec. 23. The judges of the Porter superior ~~courts~~ **court** may jointly appoint two (2) full-time magistrates under [IC 33-4-7.] The magistrates continue in office until removed by the judges of the superior ~~courts.~~ **court.**

Chapter 65. Posey County

SECTION 911. IC 33-4-1-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-65] Sec. 1. Posey County ~~shall constitute~~ **constitutes** the eleventh judicial circuit.

SECTION 912. IC 33-5-38.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.1-1] Sec. 2. (a) There is established a court of record to be known as the Posey superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Posey Superior Court, Posey County, Indiana".~~ **The Posey superior court is a standard superior court as described in IC 33-29-1.**

(c) Posey County comprises the judicial district of the court.

SECTION 913. IC 33-5-38.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.1-7] Sec. 3. ~~(a)~~ The court **has one (1) judge who** shall hold sessions in:

(1) the Posey County courthouse in Mount Vernon; ~~Indiana,~~ or

(2) other places in the county that the Posey County executive provides.

~~(b) The Posey County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.~~

~~(c) The Posey County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 914. IC 33-5-38.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.1-3] Sec. 4. The **Posey superior** court has the same jurisdiction as the Posey circuit court.

SECTION 915. IC 33-5-38.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.1-11] Sec. 5. The **Posey superior** court has a standard small claims and misdemeanor division.

Chapter 66. Pulaski County

SECTION 916. IC 33-4-1-66 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-66] Sec. 1. ~~The county of~~ Pulaski ~~shall be and constitute~~ **County constitutes** the fifty-ninth judicial circuit. ~~of the State of Indiana.~~

SECTION 917. IC 33-5-38.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.2-1] Sec. 2. (a) There is established a court of record to be known as the Pulaski superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Pulaski Superior Court, Pulaski County, Indiana".~~ **The Pulaski superior court is a standard superior court as described in IC 33-29-1.**

(c) Pulaski County comprises the judicial district of the court.

SECTION 918. IC 33-5-38.2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.2-7] Sec. 3. ~~(a)~~ The court **has one (1) judge who** shall hold sessions in:

(1) the Pulaski County courthouse in Winamac; ~~Indiana,~~ or

(2) other places in the county that the Pulaski County executive provides.

~~(b) The Pulaski County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.~~

~~(c) The Pulaski County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 919. IC 33-5-38.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.2-3] Sec. 4. The **Pulaski superior** court has the same jurisdiction as the Pulaski circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 920. IC 33-5-38.2-11 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.2-11] Sec. 5. The **Pulaski superior** court has a standard small claims and misdemeanor division.

Chapter 67. Putnam County

SECTION 921. IC 33-4-1-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-67] Sec. 1. ~~The county of~~ Putnam ~~shall constitute~~ **County constitutes** the sixty-fourth judicial circuit.

SECTION 922. IC 33-5-38.3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.3-1] Sec. 2. (a) There is established a court of record to be known as the Putnam superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Putnam Superior Court, Putnam County, Indiana".~~ **Except as otherwise provided in this chapter, the Putnam superior court is a standard superior court as described in IC 33-29-1.**

(c) Putnam County comprises the judicial district of the court.

SECTION 923. IC 33-5-38.3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.3-2] Sec. 3. (a) **IC 33-29-1-3 does not apply to this section.**

(b) The **Putnam superior** court has one (1) judge who shall be elected at the general election every six (6) years in Putnam County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

~~(b)~~ **(c)** To be eligible to hold office as a judge of the court, a person must be:

(1) a resident of Putnam County; and

(2) admitted to the practice of law in Indiana.

SECTION 924. IC 33-5-38.3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.3-7] Sec. 4. ~~(a)~~ The **Putnam superior** court shall hold sessions in:

(1) the Putnam County courthouse in Greencastle; ~~Indiana,~~ or

(2) other places in the county that the Putnam County executive provides.

~~(b) The Putnam County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.~~

~~(c) The Putnam County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 925. IC 33-5-38.3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.3-3] Sec. 5. The **Putnam superior** court has the same jurisdiction as the Putnam circuit court.

SECTION 926. IC 33-5-38.3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.3-11] Sec. 6. The

Putnam superior court has a standard small claims and misdemeanor division.

Chapter 68. Randolph County

SECTION 927. IC 33-4-1-68 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-68] Sec. 1. ~~The county of~~ Randolph ~~in said State, shall constitute~~ **County constitutes** the twenty-fifth judicial circuit.

SECTION 928. IC 33-5-38.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.5-1] Sec. 2. **(a)** There is established a court of record to be known as the Randolph superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Randolph Superior Court, Randolph County, Indiana".~~ **The Randolph superior court is a standard superior court as described in IC 33-29-1.**

(c) Randolph County comprises the judicial district of the court.

SECTION 929. IC 33-5-38.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.5-7] Sec. 3. The **Randolph superior** court **has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the Randolph County courthouse in Winchester; ~~Indiana,~~ or

(2) ~~in such~~ other places in the county ~~as~~ **that** the Randolph County executive ~~may provide.~~ **provides.** ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Randolph County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 930. IC 33-5-38.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.5-3] Sec. 4. The **Randolph superior** court has the same jurisdiction as the Randolph circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 931. IC 33-5-38.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.5-11] Sec. 5. The **Randolph superior** court has a standard small claims and misdemeanor division.

Chapter 69. Ripley County

SECTION 932. IC 33-4-1-69 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-69] Sec. 1. (a) ~~The county of~~ Ripley ~~shall be and constitute~~ **County constitutes** the eightieth judicial circuit. ~~of the State of Indiana.~~

(b) The Ripley circuit court has a standard small claims and misdemeanor division.

SECTION 933. IC 33-5-38.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.7-1] Sec. 2. (a)

There is established a court of record to be known as the Ripley superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Ripley Superior Court, Ripley County, Indiana".~~ **The Ripley superior court is a standard superior court as described in IC 33-29-1.**

(c) Ripley County comprises the judicial district of the court.

SECTION 934. IC 33-5-38.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.-7-1] Sec. 3. ~~(a)~~ The **Ripley superior** court **has one (1) judge who** shall hold sessions in:

(1) the Ripley County courthouse in Versailles; ~~Indiana,~~ or

(2) other places in the county that the Ripley County executive provides.

~~(b) The Ripley County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.~~

~~(c) The Ripley County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 935. IC 33-5-38.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.7-3] Sec. 4. The **Ripley superior** court has the same jurisdiction as the Ripley circuit court.

SECTION 936. IC 33-5-38.7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.7-11] Sec. 5. The **Ripley superior** court has a standard small claims and misdemeanor division.

Chapter 70. Rush County

SECTION 937. IC 33-4-1-70 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-70] Sec. 1. ~~The county of~~ Rush ~~shall constitute~~ **County constitutes** the sixty-fifth judicial circuit. ~~of the State of Indiana.~~

SECTION 938. IC 33-5-38.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.8-1] Sec. 2. **(a)** There is established a court of record to be known as the Rush superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Rush Superior Court, Rush County, Indiana".~~ **The Rush superior court is a standard superior court as described in IC 33-29-1.**

(c) Rush County comprises the judicial district of the court.

SECTION 939. IC 33-5-38.8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.8-7] Sec. 3. **(a)** The **Rush superior** court **has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the Rush County courthouse in Rushville; ~~Indiana,~~ or

(2) ~~in such~~ other places in the county ~~as~~ **that** the Rush county executive ~~may provide.~~ **provides.** ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Rush County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 940. IC 33-5-38.8-3, AS ADDED BY P.L.45-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [3305038.803] Sec. 4. The **Rush superior** court has the same jurisdiction as the Rush circuit court.

SECTION 941. IC 33-5-38.8-11, AS ADDED BY P.L.45-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.8-11] Sec. 5. The **Rush superior** court has a standard small claims and misdemeanor division.

Chapter 71. St. Joseph County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 942. IC 33-4-1-75 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-75] Sec. 2. ~~The County of~~ St. Joseph ~~shall constitute~~ **County constitutes** the sixtieth judicial circuit.

SECTION 943. IC 33-4-1-75.1, AS AMENDED BY P.L.196-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-75.1] Sec. 3. The judge of the St. Joseph circuit court may appoint two (2) full-time magistrates under IC 33-4-7 to serve the circuit court. A magistrate continues in office until removed by the judge.

SECTION 944. IC 33-4-1-75.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-75.2] Sec. 4. Notwithstanding any other provision of this title, the jury commissioners, the superior court, and the circuit court of St. Joseph County may ~~utilize~~ **use** a computerized jury selection system. However, the system ~~utilized~~ **used** for the selection of jurors must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors.

SECTION 945. IC 33-5-40-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-1] Sec. 5. There is established a superior court in St. Joseph County. ~~Indiana, which~~ **The** court ~~shall consist~~ **consists** of eight (8) judges.

SECTION 946. IC 33-5-40-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-2] Sec. 6. The **superior** court shall be named ~~and styled~~ **the** St. Joseph Superior Court.

SECTION 947. IC 33-5-40-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-3] Sec. 7. The

superior court shall have a seal consisting of a circular disc containing the words "St. Joseph Superior Court," an impression of which shall be spread of record upon the order-book of the court.

SECTION 948. IC 33-5-40-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-4] Sec. 8. The **St. Joseph superior** court ~~for the county~~ has the following jurisdiction:

(1) Original, appellate, concurrent, and coextensive jurisdiction with the circuit court in all civil cases, criminal cases, and probate matters.

(2) Concurrent and coextensive jurisdiction with the circuit court in all cases of appeal from boards of county commissioners, and all other appellate jurisdiction vested in the circuit court.

(3) Concurrent and coextensive jurisdiction in all matters of probate and the settlement of decedents' estates, trusts, and guardianships.

(4) Jurisdiction in all other subject matters actionable in the circuit court.

(5) Original exclusive jurisdiction of all violations of ordinances of cities located in the county.

(6) Original exclusive jurisdiction in the trial of offenses constituting violation of traffic ordinances of the cities and violations of traffic laws of the state that occur in any city of St. Joseph County.

(7) Original jurisdiction of violations of traffic laws of the state that occur outside a city in St. Joseph County.

SECTION 949. IC 33-5-40-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-4.5] Sec. 9. The St. Joseph superior court has a standard small claims and misdemeanor division.

SECTION 950. IC 33-5-40-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-5] Sec. 10. The **St. Joseph superior** court ~~shall be~~ **is** a court of record, and its judgments, decrees, orders, and proceedings ~~shall~~ have the same force and effect and shall be enforced in the same manner as those of the circuit court.

SECTION 951. IC 33-5-40-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-6] Sec. 11. The judges of the **superior** court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the court ~~not repugnant to the laws of this state,~~ and ~~shall~~ have 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. The judges ~~shall have the full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and ~~to~~ give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 952. IC 33-5-40-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-7] Sec. 12. The judges of the ~~courts shall have the same power,~~ **superior court may,** [in term time or in vacation,][QUERY: NECESSARY?] ~~to~~ grant restraining orders, injunctions and writs of ne exeat, to issue writs of habeas corpus and of mandate and prohibition, 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 ~~now or may hereafter be~~ conferred on circuit courts or ~~the~~ **circuit court** judges. ~~thereof.~~

SECTION 953. IC 33-5-40-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-8] Sec. 13. (a) The St. Joseph superior court shall hold its sessions in the St. Joseph County courthouse in ~~the city of~~ South Bend and in at least one **(1)** appropriate place in ~~the city of~~ Mishawaka. The superior court in ~~the city of~~ Mishawaka shall be full time and shall exercise full superior court jurisdiction in that city. The board of county commissioners of St. Joseph County shall provide and maintain in the courthouse in South Bend and in an appropriate place in Mishawaka court facilities ~~such facilities to~~ **that** include suitable and convenient courtrooms, jury rooms, and offices for the judges, secretaries, and official court reporters, and other necessary facilities, including all the necessary furniture and equipment for the rooms and offices of the court for the conduct of all criminal and civil business, including the necessary facilities for jury trials.

(b) The judges of the court have all jurisdiction and authority granted them by law irrespective of the city in which they are located.

SECTION 954. IC 33-5-40-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-13] Sec. 14. The clerk, under the direction of the judge, shall provide order-books, judgment dockets, execution dockets, fee-books, and ~~such~~ other books, papers, and records as ~~may be~~ necessary for the court, and all books, papers, and proceedings of the **superior** court shall be kept distinct and separate from those of other courts.

SECTION 955. IC 33-5-40-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-14] Sec. 15. The **superior** court shall maintain a single order-book for the entire court ~~which order-book~~ **that** may be signed on behalf of the court by any of the sitting judges of ~~said~~ **the** court, and ~~such~~ **the** signature ~~shall be due~~ **constitutes** authentication of the actions of each of the judges in the court.

SECTION 956. IC 33-5-40-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-15] Sec. 16. Each

judge of the **superior** court shall appoint a bailiff for the court whose salary shall be fixed by the court and paid as ~~now~~ provided by law.

SECTION 957. IC 33-5-40-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-16] Sec. 17. Each judge of the **superior** court shall appoint a court reporter whose duties, salary, and term shall be regulated in the same manner as the court reporter of circuit court.

SECTION 958. IC 33-5-40-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-17] Sec. 18. All laws and rules ~~duly~~ adopted by the supreme court ~~of Indiana now in force or that may hereafter be enacted~~ governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court shall be applicable to and govern the **superior** court. ~~hereby established.~~ [QUERY: Are any of these provisions necessary?]

SECTION 959. IC 33-5-40-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-18] Sec. 19. (a) The superior court shall, in each calendar year, appoint for the next calendar year two (2) persons as jury commissioners, and the law with reference to jury commissioners appointed by the circuit court ~~shall fully govern~~ **governs** the jury commissioners as appointed by the superior court in all things, conditions, and qualifications, and the jury commissioners shall prepare and draw the jury for the superior court, both petit and grand, as the law directs the same to be done by the jury commissioners for the circuit court. The superior court ~~shall be~~ **is** governed by this law in making appointments of said jury commissioners, and the clerk of the circuit court in issuing process for the jury, and the sheriff of the county in serving the same, ~~shall be~~ **is** governed, in all things, by the law made for petit juries in the circuit court. However, the superior court may order on what day the jurors ~~shall be~~ **are** summoned to attend the court, and any judge of the court may order the selection and summoning of other jurors for the court whenever ~~the same may be~~ necessary. The jury drawn by the jury commissioners shall be the jurors, either petit or grand, for the superior court, and they shall serve the entire court, and before any judge of the court where their services may be required. However, they need not serve in any particular order in which they were drawn by the jury commissioners and, in their selection to serve before any judge, the selection ~~shall~~ **must** be on a fair and impartial basis.

(b) If at any time a jury shall not be drawn, then the clerk of the court shall select from among the properly qualified residents of such county, a jury who shall be summoned and considered in all things as

a regular panel of the court. The court may call one (1) or more juries during any calendar year, and may by rule provide for how long any jury shall sit.

SECTION 960. IC 33-5-40-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-20] Sec. 20. Any party may appeal to the supreme court or the court of appeals from any order or judgment of the **superior** court in any case where, ~~by existing or future laws of this state,~~ **under Indiana law,** an appeal may be had from a similar order or judgment of the circuit court. The appeal ~~shall be~~ **is** governed by the law governing appeals from the circuit court to the court of appeals and the supreme court.

SECTION 961. IC 33-5-40-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-21] Sec. 21. The process of the **superior** court ~~shall~~ **must** have the seal affixed and be attested, directed, served and returned, and be in form as is ~~or may be,~~ provided for process issuing from the circuit court.

SECTION 962. IC 33-5-40-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-22] Sec. 22. Each judge ~~shall have the right to~~ **of the superior court may** appoint ~~such~~ additional officers and personnel as ~~may be~~ necessary for the proper administration of ~~his~~ **the judge's** duties as judge of the court.

SECTION 963. IC 33-5-40-23, AS AMENDED BY P.L.196-1999, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-23] Sec. 23. (a) The **superior** court, by rules duly adopted by the court, shall designate one (1) of the judges as chief judge and fix the time ~~he~~ **the chief judge** ~~shall preside.~~ **presides.**

(b) The chief judge ~~shall be~~ **is** responsible for the operation and conduct of the court and to seeing that the court ~~shall~~ **operates** efficiently and judicially. ~~operate.~~

(c) The chief judge shall do the following:

(1) Assign cases to a judge of the court or reassign cases from one (1) judge of the court to another judge of the court to ensure the efficient operation and conduct of the court.

(2) Assign and allocate courtrooms, other rooms, and other facilities to ensure the efficient operation and conduct of the court.

(3) Annually submit to the fiscal body of St. Joseph County a budget for the court.

(4) Make appointments or selections on behalf of the court that are required of a superior court judge under any statute.

(5) Direct the employment and management of court personnel.

(6) Conduct cooperative efforts with other courts for establishing and administering shared programs and facilities.

SECTION 964. IC 33-5-40-24, AS AMENDED BY P.L.196-1999, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: [33-5-40-24] Sec. 24. Whenever any action of the entire **superior** court is required, ~~then~~ the judges of the court ~~will~~ **shall** act in concert. ~~In the event of~~ **If there is a** disagreement, ~~then~~ the decision of the majority of the judges ~~shall control.~~ **controls.** However, if the judges are evenly divided, the decision joined by the chief judge controls.

SECTION 965. IC 33-5-40-25, AS AMENDED BY P.L.196-1999, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-1] Sec. 25. The **superior** court shall, when ~~in its opinion~~ it ~~shall be~~ **believes it is** necessary, appoint ~~such~~ additional personnel for the proper administration of the court, including ~~but not limited to~~ an administrative officer who shall operate under the jurisdiction of the chief judge.

SECTION 966. IC 33-5-40-26, AS AMENDED BY P.L.196-1999, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-26] Sec. 26. The judge of the circuit court may, with the consent of the chief judge, transfer any action, cause, or proceeding filed and docketed in the circuit court to ~~this~~ **the superior** court by transferring all original papers and instruments filed in ~~such~~ **the** action, cause, or proceeding without further transcript ~~thereof~~ to be redocketed and disposed of as if originally filed with ~~this~~ **the superior** court.

SECTION 967. IC 33-5-40-27, AS AMENDED BY P.L.196-1999, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-27] Sec. 27. The chief judge of ~~this~~ **the superior** court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in ~~this~~ **the superior** court to the circuit court by transferring all original papers and instruments filed in ~~such~~ **the** action, cause, or proceeding without further transcript ~~thereof~~ to be redocketed and disposed of as if originally filed with the circuit court.

SECTION 968. IC 33-5-40-28, AS AMENDED BY P.L.196-1999, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-28] Sec. 28. The judge of the St. Joseph circuit court ~~shall be,~~ at the circuit court judge's discretion, ~~authorized to~~ **may** sit as a judge of ~~this~~ **the superior** court, with the chief judge's permission, in all matters pending before ~~this~~ **the superior** court, without limitation and without any further order, in the same manner ~~and stead~~ as if the judge of the circuit court were a judge of ~~this~~ **the superior** court with all the rights and powers as if the judge of the circuit court were ~~a duly~~ **an** elected judge of ~~this~~ **the superior** court.

SECTION 969. IC 33-5-40-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: ~~Sec. 29. IC 33-5-13 (repealed January 1, 1985), but only so far as said chapter pertains to~~

~~the St. Joseph Superior Court is hereby specifically repealed. All laws and parts of laws inconsistent with this chapter, but only insofar as they apply to this chapter, are hereby repealed.~~

SECTION 970. IC 33-5-40-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-33] Sec. 29. **(a)** There is ~~hereby~~ established a judicial nominating commission for the St. Joseph superior court, the functions, responsibilities and procedures of which are set forth in sections [34 through 44] of this chapter.

(b) The board of county commissioners of St. Joseph County shall provide all facilities, equipments, supplies, and services ~~as may be~~ necessary for the administration of the duties imposed upon the commission. The members of this commission shall serve without compensation. However, the board of county commissioners of St. Joseph County shall reimburse members of this commission for their actual expenses incurred in performing their duties.

SECTION 971. IC 33-5-40-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-34] Sec. 30. **(a)** The judicial nominating commission ~~hereafter called~~ **(referred to as** the "commission" **in this chapter)** ~~shall consist~~ **consists** of seven (7) members, the majority of whom shall form a quorum. The chief justice ~~of Indiana~~ shall appoint a justice of the ~~Indiana~~ supreme court or a judge of the ~~Indiana~~ court of appeals to serve as a member and chairman of the commission until a successor is appointed. Those admitted to the practice of law in ~~the state of~~ Indiana and residing in St. Joseph County or maintaining their principal law office in St. Joseph County shall elect, ~~pursuant to~~ **under** sections [36 and 37] of this chapter, three (3) of their number to serve as attorney members of the commission. If any attorney member of the commission terminates ~~his~~ residence in St. Joseph county or discontinues the maintenance of ~~his~~ **a** principal law office in St. Joseph county, ~~he~~ **the member** shall be considered to have resigned from the commission. The three (3) remaining members of the commission ~~shall~~ **must** be persons not admitted to the practice of law ~~herein after~~ (referred to as "non-attorney members" **in this chapter)** and residents of St. Joseph County. However, ~~no~~ **not** more than two (2) of the non-attorney members ~~shall~~ **may** be from the same political party and that the appointment of the non-attorney members of the commission shall be made under section [35] of this chapter. ~~No~~ **Not** more than four (4) commission members ~~shall~~ **may** be from the same political party.

~~No~~ **(b) A** member of the commission ~~shall~~ **may not** hold any other salaried public office, and ~~no~~ **a** member ~~shall~~ **may not** hold an office in a political party organization. ~~Nor shall any~~ **A** member of the commission ~~be~~ **is not** eligible for appointment to a judicial office in St. Joseph County who has, within ~~a period of~~ four (4) years immediately

preceding ~~such~~ an appointment, served on the commission. If any non-attorney member of the commission terminates ~~his~~ residence in St. Joseph County, ~~he~~ **the member** ~~shall be~~ **is** considered to have resigned from the commission.

SECTION 972. IC 33-5-40-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-35] Sec. 31. (a) The appointment to membership on the commission of the nonattorney members shall be made by a selection committee consisting of the judge of the St. Joseph circuit court, the president of the board of St. Joseph County commissioners and mayors in each of the two (2) cities having the largest populations in St. Joseph County. These appointments shall be made by a majority vote of the selection committee. ~~In the event~~ **If** a vacancy occurs on the commission among the nonattorney members, that fact shall be reported to the judge of the St. Joseph circuit court by the commission. Upon notification, the judge of the St. Joseph circuit court shall call into session the selection committee, which shall, by majority vote, select a person or persons not admitted to the practice of law, who shall serve the unexpired term of the vacant commission membership position and that this selection and appointment by the selection committee shall be made within sixty (60) days ~~from~~ **after** the date ~~that~~ the St. Joseph circuit court is notified of the creation of the vacancy. ~~In the event~~ **If** that the selection committee fails to act to fill an unexpired term of a nonattorney member of the commission within ~~a period of~~ sixty (60) days ~~from~~ **after** the notification that the vacancy exists, the vacancy shall be filled by a majority vote of the remaining members of the commission.

(b) Not less than sixty (60) days ~~prior to~~ **before** the expiration of the term of a nonattorney member of the commission, the judge of the St. Joseph circuit court shall call into session the selection committee who shall appoint by a majority vote, a person to the commission to serve a new term. ~~In the event that~~ **If** the selection committee fails to act to fill an expired term of a nonattorney member of the commission by the date of expiration of the term of a nonattorney member of the commission, ~~then in that event~~ the remaining members on the commission shall, by majority vote, appoint a person to serve for the succeeding term. All appointments made to the commission shall be certified within ten (10) days to the clerk of the St. Joseph superior court.

(c) Each appointee of a nonattorney member to the commission, except those who fill a vacancy, shall serve for ~~a period of~~ four (4) years.

SECTION 973. IC 33-5-40-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-36] Sec. 32. (a) ~~In May 1974, and~~ Each year ~~thereafter, except those years~~ in which ~~no~~ **an** attorney member's terms expire, those admitted to the practice of law

in ~~the state of~~ Indiana and residing in St. Joseph County ~~hereinafter called~~ **(referred to as** "attorney electors" **in this chapter)** shall elect three (3) of their number to serve ~~the initial terms~~ on the commission.

~~(1) One (1) member to serve for a period of two (2) years, who shall be the nominee receiving the third (3rd) highest number of votes cast;~~

~~(2) One (1) member to serve for a period of three (3) years, who shall be the nominee receiving the second (2nd) highest number of votes cast;~~

~~(3) One (1) member to serve for a period of four (4) years, who shall be the nominee receiving the highest number of votes cast.~~

Each attorney member of the commission ~~following the expiration of the initial term for which he was elected in May of 1974,~~ shall ~~thereafter~~ serve for ~~a period of~~ four (4) years. The term of each attorney member of said commission shall commence on the first ~~(1st)~~ day of October following ~~his~~ **the member's** election. The election day is the date on which the ballots are counted. ~~and for the purpose of this section, shall be the third (3rd) Tuesday in May 1974, and every year thereafter, except those years in which no attorney member's term expires. Thereafter,~~ During the month ~~prior to~~ **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.

SECTION 974. IC 33-5-40-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-37] Sec. 33. The attorney members of the commission shall be elected by the following process:

~~(a)~~ **(1)** The clerk of the St. Joseph superior court shall at least ninety (90) days ~~prior to~~ **before** the date of election notify all attorneys in St. Joseph County of the upcoming election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days ~~prior to~~ **before** the election. The clerk shall secure a list of all attorneys in the county and their correct addresses from the clerk of the supreme court. ~~of the state of Indiana.~~

~~(b)~~ **(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 an attorney elector or group of attorney electors residing in St. Joseph County, by mail or otherwise, in the office of the clerk of St. Joseph superior court at least sixty (60) days ~~prior to~~ **before** the election.

~~(c)~~ **(3)** The clerk of St. Joseph superior court shall prepare and

print ballots containing the names and residence addresses of all attorney nominees whose written nominations, petitions and written statements of consent have been received sixty (60) days ~~prior to~~ **before** the election.

The ballot ~~shall~~ **must** read:

ST. JOSEPH SUPERIOR COURT

NOMINATING COMMISSION BALLOT

To be cast by individuals residing in St. Joseph County and admitted to the practice of law in Indiana. Vote for one (1) of the following candidates for the term commencing:

(Insert Date)

( )	(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 St. Joseph superior court not later than _____ (insert date).

DESTROY BALLOT IF NOT USED

~~(d)~~ **(4)** The nominee receiving the most votes ~~shall be~~ **is** elected.

~~(e)~~ **(5)** The clerk shall also supply with each ballot distributed by ~~him~~ **the clerk** a certificate, to be completed and signed and returned by the attorney elector voting that ballot, certifying that ~~he~~ **the attorney elector** is admitted to the practice of law in Indiana, ~~and that he~~ resides in St. Joseph County, and ~~that he~~ voted the ballot returned. A ballot not accompanied by the signed certificate of the voter ~~shall~~ **may** not be counted.

~~(f)~~ **(6)** 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~~ **may** not be opened until the counting of the ballots.

~~(g)~~ **(7)** The clerk of St. Joseph superior court shall mail a ballot and its accompanying material to all qualified attorney electors at least two (2) weeks before the date of election.

~~(h)~~ **(8)** Upon receiving the completed ballots and the accompanying certificates, the clerk shall insure 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.

~~(i)~~ **(9)** The clerk of St. Joseph superior court, with the assistance of the St. Joseph County election board shall open and canvass all ballots ~~after four (4) o'clock~~ **4** p.m. on the day of election in the office of the clerk of St. Joseph superior court. ~~No~~ Ballots

received after ~~four (4) o'clock~~ **4** p.m. ~~are to~~ **may not** be counted. Upon canvassing the ballots the clerk shall place all ballots back in their package. These, along with the certificates, shall be retained in ~~his~~ **the clerk's** office for ~~a period of~~ six (6) months. ~~and he shall permit no one~~ **The clerk may not allow a person** to inspect them except upon an order of the ~~Indiana~~ court of appeals. ~~(j)~~ **(10)** 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 ~~him~~ **that nominee** a plurality, the canvassers shall resolve the tie by lot and the winner of the lot ~~shall be deemed to have been~~ **is considered** elected.

SECTION 975. IC 33-5-40-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-38] Sec. 34. After the attorney members of the commission have been elected, and after the names of the non-attorney commissioners appointed by the selection committee have been certified to the secretary of state, clerk of the supreme court, and the clerk of St. Joseph superior court under this chapter, the clerk of St. Joseph superior court shall by regular mail notify the members of the commission of their election or appointment, and shall ~~so~~ notify the chairman of the judicial nominating commission of the same.

SECTION 976. IC 33-5-40-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-39] Sec. 35. ~~No~~ **A** person who has been elected or appointed to a full four (4) year term upon the commission may **not** succeed himself **or herself** or be eligible for election or appointment to the commission for ~~a period of~~ four (4) years ~~from~~ **after** the expiration of the term to which ~~he~~ **the person** was elected or appointed.

SECTION 977. IC 33-5-40-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-40] Sec. 36. (a) When a vacancy occurs in the St. Joseph superior court, the clerk of the court shall promptly notify the chairman of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following this notice. The commission shall submit its nominations of five (5) candidates for each vacancy and certify them to the governor as promptly as possible, and ~~in any event~~ not later than sixty (60) days ~~from the time~~ **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 commission immediately, and the commission may within fifty (50) days of the notice of vacancy make its nominations and submit to the governor the names of five (5) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by its chairman, or

~~in the event of his~~ **If the chairman** ~~failure~~ **fails** to call a necessary meeting, upon the call of any four (4) members of the commission. The chairman, whenever ~~he~~ **the chairman** ~~deems~~ **considers** a meeting necessary, or upon the request by any four (4) 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 time and place of every meeting unless the commission at its previous meeting designated the time and place of its next meeting.

(c) Meetings of the commission ~~are to~~ **must** be held at ~~such~~ a place in the St. Joseph County courthouse in South Bend ~~Indiana,~~ as the clerk of the St. Joseph superior court may arrange.

(d) The commission shall act only at a meeting, and may act only by the concurrence of a majority of its members attending a meeting. Four (4) members are required to constitute a quorum at a meeting. The commission ~~shall have power to~~ **may** adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties.

SECTION 978. IC 33-5-40-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-41] Sec. 37. (a) The commission shall submit only the names of the five (5) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the St. Joseph superior court, a person must be domiciled in the county of St. Joseph, a citizen of the United States, and admitted to the practice of law in the courts of this state.

(b) In abiding by the mandate in subsection (a) of this section, the commission shall evaluate in writing each eligible individual on the following factors:

(1) Law school record, including any academic honors and achievements.

(2) Contribution to scholarly journals and publications, legislative draftings, and legal briefs.

(3) Activities in public service, including:

~~(i)~~ **(A)** writings and speeches concerning public or civic affairs which are on public record, including but not limited to campaign speeches or writing, letters to newspapers, testimony before public agencies;

~~(ii)~~ **(B)** efforts and achievements in improving the administration of justice; **and**

~~(iii)~~ **(C)** other conduct relating to ~~his~~ **the individual's** profession.

(4) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(5) Probable judicial temperament.

(6) Physical condition, including age, stamina, and possible habitual intemperance.

(7) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate patience, decisiveness, and dedication.

(8) Membership on boards of directors, financial interest, and any other consideration which might create conflict of interest with a judicial office.

(9) Any other pertinent information which the commission feels is important in selecting the best qualified individuals for judicial office.

(c) These written evaluations ~~shall~~ **may** not be made on an individual until ~~he~~ **the individual** states in writing that ~~he~~ **the individual** desires to hold a judicial office that is or will be created by vacancy.

(d) The political affiliations of any candidate ~~shall~~ **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 St. Joseph superior court.

SECTION 979. IC 33-5-40-42, AS AMENDED BY P.L.196-1999, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-42] Sec. 38. The commission shall submit with the list of five (5) nominees to the governor its written evaluation of the qualifications of each candidate, and these names and written evaluations shall be publicly disclosed. Every eligible candidate whose name was not submitted to the governor shall have access to any evaluation on him by the commission and the right to make the evaluation public. Otherwise, the evaluation, including the names of the candidates applying for the office, shall remain confidential. If the commission should determine that there are less than five (5) persons qualified under section [44] of this chapter, they must submit a lesser number under section [44] of this chapter.

SECTION 980. IC 33-5-40-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-43] Sec. 39. After the commission has nominated and submitted to the governor the names of five (5) persons for appointment to fill a vacancy of the St. Joseph superior court, any name or names may be withdrawn for a cause deemed by the commission to be of substantial nature affecting the nominee's qualifications to hold office, and another name or names may be substituted ~~therefor~~ at any time before the appointment is made to fill the vacancy. If any nominee dies, or requests in writing that ~~his~~ **the nominee's** name be withdrawn, the commission shall nominate another person to replace ~~him.~~ **the nominee.** Whenever there are existing at the same time two (2) or more vacancies on the court, the commission shall nominate and submit to the governor a list of five (5)

different persons for each of the vacancies. The commission may, in its discretion and 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 so changed, or may substitute a new name for any of those previously nominated.

SECTION 981. IC 33-5-40-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-44] Sec. 40. **(a)** A vacancy occurring in the St. Joseph superior court shall be filled by appointment of the governor from a list of nominees presented to ~~him~~ **the governor** by the judicial nominating commission. If the governor fails to make an appointment from the list within sixty (60) days from the day it is presented to ~~him,~~ **the governor,** the appointment shall be made by the chief justice or the acting chief justice of the supreme court ~~of Indiana~~ from the same list presented to the governor.

(b) The governor shall make all appointments to the St. Joseph superior court without regard to the political affiliation of any of the nominees submitted to ~~him.~~ **the governor.** ~~Further~~ In the interest of justice, the governor shall consider only those qualifications of the nominees included in section [41] of this chapter.

(c) If the St. Joseph County judicial nominating commission, ~~shall~~ by a vote of any five (5) of its members, ~~determine~~ **determines** that, of the persons considered for any existing or expected vacancy in the St. Joseph superior court, less than five (5) are qualified for judicial office, within the scope of this chapter, it shall certify that determination to the governor together with the name or names of the person or persons whom it has found to be qualified as under this chapter. ~~and~~ In that event, the governor, chief justice, or acting chief justice shall make the selection or, if ~~but~~ **only** one **(1)** name is submitted, make the appointment. ~~forthwith.~~

SECTION 982. IC 33-5-40-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-45] Sec. 41. An appointment by the governor, chief justice, or acting chief justice, as required by section [44] of this chapter to the St. Joseph County superior court shall take effect immediately if a vacancy exists at the date of the appointment. The appointment shall take effect on the date the vacancy is created if no vacancy yet exists at the date of the appointment.

SECTION 983. IC 33-5-40-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-46] Sec. 42. (a) Each judge appointed ~~shall serve~~ **serves** an initial term ~~which shall commence~~ **that begins** on the effective date of ~~his~~ **the judge's** appointment and ~~shall continue~~ **continues** through ~~the last day of~~ December **31** in the year of the general election ~~which~~ **that** follows the expiration of two (2) years ~~from~~ **after** the effective date of ~~his~~ **the**

judge's appointment.

(b) Thereafter, unless rejected by the electorate of St. Joseph County under this chapter, each judge of the St. Joseph superior court ~~shall serve~~ **serves** successive six (6) year terms. Each successive six (6) year term ~~shall commence~~ **begins** on the first ~~(1st)~~ day of January following the expiration of the preceding initial term or the preceding six (6) year term, as the case may be, and ~~shall continue~~ **continues** for ~~a period of~~ six (6) years.

SECTION 984. IC 33-5-40-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-47] Sec. 43. (a) The question of the retention in office or rejection of each judge of the St. Joseph superior court shall be submitted to the electorate of St. Joseph County at the general election immediately preceding expiration of the term of that judge.

(b) ~~In the event that any~~ **If a** judge subject to this chapter does not desire to serve a further term, the judge shall ~~so~~ notify in writing the clerk of the St. Joseph circuit court at least sixty (60) days ~~prior to~~ **before** the general election immediately preceding expiration of the judge's term in which case the question of the judge's retention in office or rejection ~~shall~~ **may** not be submitted to the electorate, and the office ~~shall be~~ **is** vacant at the expiration of the term.

(c) The St. Joseph County election board shall submit the question of the retention in office or rejection of any judge to the electorate of St. Joseph County. The submission of this question ~~shall be~~ **is** subject to the provisions of IC 3 that are not inconsistent with this chapter.

(d) At the general election the question of the retention in office or rejection of a judge shall be submitted to the electorate of St. Joseph County in the form prescribed by IC 3-11-2 and must state "Shall Judge (insert name) of the St. Joseph superior court be retained in office for an additional term?".

(e) ~~In the event that~~ **If** a majority of the ballots cast by the electors voting on ~~any such~~ **the** question ~~shall be~~ **is** "No", the judge whose name appeared on such question ~~shall be~~ **is** rejected. The office of the rejected judge ~~shall be~~ **is** vacant on January 1 following the rejection. The vacancy shall be filled by appointment of the governor ~~pursuant to~~ **under** section [44] of this chapter. The name of the rejected judge ~~shall~~ **may** not be included among those submitted to the governor. However, the judge's rejection ~~shall~~ **does** not disqualify a rejected judge from being considered for another judicial office ~~then~~ **that is** vacant ~~or thereafter becoming~~ **becomes** vacant.

SECTION 985. IC 33-5-40-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-48] Sec. 44. **(a)** During ~~his~~ **a** term of office, ~~no~~ **a** judge of the St. Joseph superior court ~~shall~~ **may not** engage in the practice of law, run for an elective office

other than a judicial office, **or** directly or indirectly make any contributions to, or hold any office in, a political party or organization. ~~nor shall he~~ **A judge may not** take part in any political campaign except ~~if he be~~ **as** a candidate for retention in judicial office and, in that event, ~~his~~ **the judge's** campaign participation ~~shall~~ **must** be absolutely devoid of partisan association and ~~shall~~ be limited to activities designed to acquaint the electorate with ~~his~~ **the judge's** judicial record.

(b) Failure to comply with this section ~~shall be~~ **is** sufficient cause for the commission on judicial qualifications created by this chapter to recommend to the supreme court ~~of Indiana~~ that ~~such~~ **the** judge be censured or removed from office.

SECTION 986. IC 33-5-40-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-49] Sec. 45. There is ~~hereby~~ created a commission on judicial qualifications for the St. Joseph superior court, whose membership ~~shall be~~ **is** the same as that of the judicial nominating commission provided for in section [33] of this chapter. The commission ~~shall have authority to~~ **may** employ special counsel in any proceedings it undertakes ~~pursuant to~~ **under** the responsibilities imposed upon it by this chapter.

SECTION 987. IC 33-5-40-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-50] Sec. 46. (a) On recommendation of the commission, the supreme court ~~of Indiana~~ may suspend a judge of the St. Joseph superior court from office without salary when in any court in the United States ~~he~~ **the judge** enters a plea of guilty or of nolo countendere to, or is found guilty of, any crime punishable as a felony under the laws of ~~the state of~~ Indiana or of the United States, or of any other crime that involves moral turpitude under that law. If ~~his~~ **the judge's** conviction is reversed, suspension terminates, and ~~he~~ **the judge** shall be paid ~~his~~ **the judge's** salary for the period of suspension. If ~~he~~ **the judge** is suspended and ~~his~~ **the judge's** conviction is affirmed or otherwise becomes final, the supreme court shall remove ~~him~~ **the judge** from office.

(b) On recommendation of the commission, the supreme court may:

(1) retire a judge of the St. Joseph superior court for disability that seriously interferes with the performance of ~~his~~ **the judge's** duties and is likely to become permanent; and

(2) censure or remove a judge of the St. Joseph superior court for conduct occurring not more than six (6) years ~~prior to~~ **before** the commencement of his current term, when the conduct constitutes wilful misconduct in office, wilful and persistent failure to perform ~~his~~ **the judge's** duties, habitual intemperance, or conduct prejudicial to the administration of justice or ~~which~~ **that** brings or tends to bring judicial office into disrepute.

(c) When the supreme court ~~of Indiana~~ receives any

recommendation from the commission, it shall hold a hearing, at which the affected judge is entitled to be present, and shall make a determination as ~~shall be~~ **is** required. The supreme court of ~~Indiana~~ shall make rules regarding the convening and ~~conduction~~ **conduct** of ~~such~~ hearings, which shall, upon request of the judge whom it concerns, be public.

SECTION 988. IC 33-5-40-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-51] Sec. 47. (a) The judicial qualifications commission shall meet ~~from time to time~~ **periodically** as ~~may be~~ necessary to discharge its statutory responsibilities. Meetings of the commission shall be called in the same manner as prescribed for the judicial nominating commission. A quorum for the transaction of business ~~shall be~~ **is** four (4) members of the commission.

(b) The clerk of the St. Joseph circuit court shall make ~~such~~ arrangements for a meeting place in St. Joseph County as the commission may request.

(c) The commission ~~shall~~ **may** act only at a meeting. The commission ~~shall have the power to~~ **may** adopt reasonable and proper rules and regulations for the conduct of its meetings and discharge of its duties.

SECTION 989. IC 33-5-40-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-52] Sec. 48. (a) All papers filed with and proceedings had before the **judicial qualifications** commission ~~prior to~~ **before** the institution of formal proceedings ~~shall be~~ **are** confidential unless the judge against whom a complaint has been filed elects to have the information divulged, or unless the commission elects to answer publicly disseminated statements issued by any complainant.

(b) All papers filed with the commission at the time of or after the institution of formal proceedings ~~shall be~~ **are** open for public inspection at all reasonable times. Records of commission proceedings ~~shall be~~ **are** open for public inspection at all reasonable times. All hearings and proceedings before the commission ~~shall be~~ **are** open to the public.

SECTION 990. IC 33-5-40-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-53] Sec. 49. The filing of papers with or the giving of testimony before the **judicial qualifications** commission under this chapter ~~shall be~~ **are** absolutely privileged in any action for defamation.

SECTION 991. IC 33-5-40-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-54] Sec. 50. Complaints directed to the ~~commission on~~ judicial qualifications ~~need~~ **commission do** not **have to** be in writing. ~~No~~ **A** specified form of

complaint ~~shall~~ **may** be required if presented in writing.

SECTION 992. IC 33-5-40-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-55] Sec. 51. (a) Any citizen of ~~the state of~~ Indiana ~~shall have the right at all times to~~ **may** complain to the ~~commission on~~ judicial qualifications **commission** with reference to the activities, fitness, or qualifications of any judge of the St. Joseph superior court. Upon receiving a complaint or request, the commission shall make ~~such~~ an initial inquiry ~~as is necessary~~ to determine if a complaint is founded and not frivolous. The commission, without receiving a complaint, may make an initial inquiry on its own motion.

(b) If the commission ~~deems~~ **considers** it necessary as a result of its initial inquiry to conduct further investigation, the judge involved may then be notified of the investigation, the nature of the charge, the complaint which ~~shall have been reduced to~~ **must be in** writing, and the name of the person making the complaint, if any, or that the investigation is on the commission's own motion and the judge shall be afforded reasonable opportunity in the course of the investigation to present ~~such~~ matters as ~~he~~ **the judge** may choose. When this notice is given, it ~~shall~~ **must** be by pre-paid registered or certified mail addressed to the judge at ~~his~~ **the judge's** chambers and at ~~his~~ **the judge's** last known address. If the investigation does not disclose sufficient cause to warrant further proceedings the judge may be so notified. The commission ~~shall have the power to~~ **may** make investigations by members of the commission or by special investigators employed by the commission, ~~to~~ hold confidential hearings with the person ~~or persons~~ filing the complaint or with ~~his or their~~ **the person's** agents or attorneys, and ~~to~~ hold confidential hearings with the judge involved in the complaint.

(c) If the commission's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings and if the complainant subsequently issues any statement or statements of any kind for public dissemination relating to the activities or actions of the commission, the commission ~~shall have the right to~~ **may** answer that statement ~~or statements~~ by reference to ~~so~~ **as** much of the record of its proceedings or results of its investigation as it ~~deems~~ **considers** necessary.

SECTION 993. IC 33-5-40-56 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-56] Sec. 52. After the investigation has been completed if the commission concludes that formal proceedings should be instituted it shall give written notice to the judge advising ~~him~~ **the judge** of the institution of formal proceedings to inquire into the charges against ~~him.~~ **the judge.** These proceedings shall be entitled:

"BEFORE THE ST. JOSEPH COUNTY JUDICIAL QUALIFICATIONS COMMISSION
Inquiry Concerning a Judge, No. _____ .".

(b) The notice shall be issued in the name of the commission and specify in ordinary and concise language the charges against the judge and the alleged facts upon which the charges are based, and ~~shall~~ **must** advise the judge of ~~his~~ **the judge's** right to file a written answer to the charges against ~~him~~ **the judge** within twenty (20) days after service of the notice upon ~~him. No~~ **the judge. A** charge ~~shall be~~ **is not** sufficient if it merely recites the general language of the original complaint, but must specify the facts relied upon to support a particular charge. A copy of the notice shall be filed in the office of the commission.

(c) The notice shall be made upon the judge by registered or certified mail addressed to the judge at ~~his~~ **the judge's** chambers and ~~his~~ **the judge's** last known address.

SECTION 994. IC 33-5-40-57 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-57] Sec. 53. Within twenty (20) days after service of the notice of formal proceedings the judge may file with the commission a signed original and one **(1)** copy of an answer, and shall serve a copy on the counsel by mail.

SECTION 995. IC 33-5-40-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-58] Sec. 54. Upon filing of an answer or upon the expiration of the time for its filing, the commission shall order a hearing to be held before it concerning the discipline, retirement, or removal of the judge. The commission shall set an approximate time and a place for a hearing and shall give notice of the hearing by registered or certified mail to the judge and to the counsel at least twenty (20) days ~~prior to~~ **before** the date set.

SECTION 996. IC 33-5-40-59 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-59] Sec. 55. At the time and place set for hearing, the commission may proceed with the hearing whether or not the judge has filed an answer or appears at the hearing.

(b) The failure of the judge to answer or to appear at the hearing, standing alone, ~~shall~~ **may** not be taken as evidence of the truth of the facts alleged to constitute grounds for censure, retirement, or removal. In any proceeding for involuntary retirement for disability, the failure of the judge to testify in ~~his~~ **the judge's** own behalf or to submit to a medical examination requested by the commission may be considered, unless it appears that the failure was due to circumstances beyond ~~his~~ **the judge's** control.

(c) The proceedings at the hearing shall be reported verbatim.

(d) ~~Not less than~~ **At least** four (4) members of the commission ~~shall~~

must be present when the evidence is produced.

SECTION 997. IC 33-5-40-60 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-60] Sec. 56. At a hearing before the commission the evidentiary rules of the courts of this state ~~shall~~ apply.

SECTION 998. IC 33-5-40-61 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-61] Sec. 57. (a) In formal proceedings involving the judge's discipline, retirement, or removal, a judge ~~shall have~~ **has** the right and reasonable opportunity to defend against the charges by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. The judge ~~shall also have~~ **has** the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, papers, and other evidentiary matter.

(b) When a transcript of the testimony has been prepared at the expense of the commission, a copy shall be furnished without cost to the judge. The judge ~~shall have~~ **has** the right, without any order or approval, to have all or any ~~portion~~ **part** of the testimony in the proceedings transcribed at the judge's expense.

(c) Except as otherwise provided in this chapter, whenever provision is made for giving notice or sending any matter to the judge, that notice or matter ~~shall~~ **must** be mailed by registered or certified mail to the judge at the judge's office and residence unless the judge requests otherwise in writing, and a copy is mailed to the judge's attorney of record.

(d) If the judge has been adjudged incapacitated under IC 29-3, the guardian may claim and exercise any right and privilege and make any defense for the judge with the same force and effect as if claimed, exercised, or made by the judge, if competent, and whenever these rules provide for serving or giving notice or sending any matter to the judge, a copy of the notice or matter also shall be served, given, or sent to the guardian.

SECTION 999. IC 33-5-40-62 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-62] Sec. 58. At any time ~~prior to~~ **before** determination of the issues, the commission may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. In case such an amendment is made, the judge shall be given reasonable time both to answer the amendment and to prepare and present ~~his~~ **the judge's** defense against the matters charged thereby.

SECTION 1000. IC 33-5-40-63 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-63] Sec. 59. The commission may order a hearing for the taking of additional evidence

at any time while the matter is pending before it. The order ~~shall~~ **must** set the time and place of the hearing in St. Joseph County and ~~shall~~ **must** indicate the matters on which the evidence is to be taken. A copy of the order shall be sent by registered or certified mail to the judge and to the counsel at least ten (10) days ~~prior to~~ **before** the date of the hearing.

SECTION 1001. IC 33-5-40-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-64] Sec. 60. If the commission finds good cause, it shall recommend to the supreme court the censure, retirement, or removal of the judge. The affirmative vote of four (4) members of the commission, including a majority of those who were present at the hearing or hearings when the evidence was produced, is required for a recommendation of discipline, retirement, or removal of a judge.

SECTION 1002. IC 33-5-40-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-65] Sec. 61. Upon making a determination recommending the censure, retirement, or removal of a judge, the commission shall promptly file a copy of the recommendation certified by the chairman or secretary of the commission, together with the transcript and findings and conclusions, with the clerk of the supreme court and shall promptly mail to the judge and to the counsel notice of the filing, together with a copy of the recommendation, finding, and conclusions.

SECTION 1003. IC 33-5-40-66 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-66] Sec. 62. (a) A petition to the supreme court to modify or reject the recommendation of the commission for censure, retirement, or removal of a judge may be filed by the judge within thirty (30) days after the filing with the clerk of the supreme court of the certified copy of the commission's recommendation. The petition ~~shall~~ **must** be verified, ~~shall~~ **must** be based on the record, ~~shall~~ **must** specify the grounds relied on and ~~shall~~ **must** be accompanied by petitioner's brief together with proof of service on the commission of two (2) copies, and on the counsel of one (1) copy, of the petition and the brief. Within twenty (20) days after service of petitioner's brief the commission shall file a respondent's brief and serve a copy ~~thereof~~ **of the respondent's brief** on the judge. Within twenty (20) days after service of **the** respondent's brief the petitioner may file a reply brief, two (2) copies of which shall be served on the commission and one (1) copy shall be served on the counsel.

(b) Failure to file a petition within the time provided ~~shall be deemed~~ **is considered** a consent to the determination on the merits based upon the record filed by the commission.

(c) To the extent necessary to implement this section and if not inconsistent ~~herewith,~~ **with this section** the Indiana Rules of Appellate Procedure ~~shall be~~ **are** applicable to reviews by the supreme court of

commission proceedings.

SECTION 1004. IC 33-5-40-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-67] Sec. 63. The commission ~~shall have~~ **has** jurisdiction and powers ~~as are~~ necessary to conduct the proper and speedy disposition of any investigation or hearing, including the power to compel the attendance of witnesses to take or cause to be taken the deposition of witnesses and to order the production of books, records, or other documentary evidence. Any member of the commission ~~shall have the power to~~ **may** administer oaths and affirmations to witnesses in any matter within the jurisdiction of the commission.

SECTION 1005. IC 33-5-40-68 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-68] Sec. 64. Subpoenas ~~for the attendance of witnesses and the production of documentary evidence in any proceeding shall be issued as follows: subpoenas~~ for the attendance of witnesses and the production of documentary evidence between the commission or for discovery shall be issued by the chairman of the commission and shall be served in the manner provided by law for the service of process.

SECTION 1006. IC 33-5-40-69 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-69] Sec. 65. Where in any proceeding before the commission, any witness ~~shall fail~~ **fails** or ~~refuse~~ **refuses** to attend upon subpoena issued by the commission or any of their representatives, or appearing, shall refuse to testify or ~~shall refuse~~ **refuses** to produce any books and papers the production of which is called for by the subpoena, the attendance of any witness and the giving of ~~his~~ **the witness's** testimony and the production of the books and papers required shall be enforced by the St. Joseph circuit court.

SECTION 1007. IC 33-5-40-70 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-70] Sec. 66. All papers and pleadings filed with the chairman of the commission at ~~his~~ **the chairman's** office shall be considered filed with the commission.

SECTION 1008. IC 33-5-40-71 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-71] Sec. 67. (a) In all formal proceedings discovery shall be available to the commission and to the judge in accordance with the Indiana Rules of Civil Procedure. Any motions requesting court orders for discovery shall be made to the St. Joseph circuit court.

(b) In all formal proceedings before the commission the counsel shall furnish to the judge not less than twenty (20) days ~~prior to~~ **before** any hearing the following:

(1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing together with copies of all written statements and transcripts of testimony of such witnesses

in the possession of the counsel or the commission ~~which~~ **that** are relevant to the subject matter of the hearing and ~~which~~ **that** have not previously been furnished the judge.

(2) Copies of all documentary evidence which the counsel expects to offer in evidence at the hearing. The testimony of any witness, except if offered in rebuttal or for impeachment, whose name and address has not been furnished to the judge, and documentary evidence, copies of which have not been so furnished to the judge, as provided above [QUERY: What does "above" refer to?], ~~shall not be~~ **are not** admissible in evidence at the hearing over the objection of the judge. After formal proceedings have been instituted, the judge may request in writing that the counsel furnish to the judge the names and addresses of all witnesses then or thereafter known to the counsel who have information ~~which~~ **that** may be relevant to any charge against the judge and to any defense of the judge with respect ~~thereto.~~ **to the change.** The counsel shall also furnish copies of such written statements, transcripts of testimony, and documentary evidence as are then or thereafter known to the counsel and are then or thereafter in the possession of the counsel or the commission ~~which~~ **that** are relevant to any charges or defense and which have not previously been furnished the judge. The counsel shall comply with a request within ten (10) days after receipt of the request and thereafter within ten (10) days after any information or evidence ~~shall become~~ **becomes** known to the counsel.

(c) During the course of an investigation by the commission, the judge whose conduct is being investigated ~~can~~ **may** demand in writing that the commission either institute formal proceedings against ~~him~~ **the judge** or enter a formal finding that there is not probable cause to believe that ~~he~~ **the judge** is guilty of any misconduct and the commission shall within sixty (60) days after ~~his~~ **the judge's** demand comply ~~therewith.~~ **with the demand.** A copy of the demand shall be filed in the supreme court and ~~shall be~~ **is** a matter of public record. If, after a demand the commission finds that there is not probable cause, that finding shall be filed in the supreme court ~~of Indiana~~ and ~~be~~ **is** a matter of public record.

SECTION 1009. IC 33-5-40-72 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-72] Sec. 68. (a) ~~Retirement.~~ When a judge of a St. Joseph County court is retired by the supreme court under this chapter and on those grounds set forth in ~~section~~ **sections** [48 and 50] of this chapter, ~~he~~ **the judge** ~~shall be~~ **is** considered to have retired voluntarily. In these situations, ~~nothing in~~ this chapter ~~shall~~ **may not** be construed to authorize any encroachment upon or impairment of any rights of the judge or ~~his~~ **the judge's**

surviving spouse ~~now or hereafter existing~~ under any constitutional or statutory retirement program.

(b) ~~Removal.~~ A judge of St. Joseph County court who is removed from office by the supreme court on those grounds set forth in sections [48 and 50] of this chapter, ~~shall be~~ **is** ineligible for judicial office and, pending further order of the supreme court, ~~of Indiana, he shall~~ **shall** be suspended from the practice of law in ~~the state of~~ Indiana.

SECTION 1010. IC 33-5-40-73, AS AMENDED BY P.L.133-2002, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40-73] Sec. 69. (a) ~~After August 31, 1999,~~ The court may appoint two (2) full-time magistrates under [IC 33-4-7] to serve the court using the selection method provided by IC 36-1-8-10(b)(1) or IC 36-1-8-10(b)(2). Not more than one (1) of the magistrates appointed under this section may be a member of the same political party.

(b) A magistrate continues in office until removed by the judges of the court.

(c) The powers of a magistrate appointed under this section include the powers provided in [IC 33-4-7] and the power to enter a final order or judgment in any proceeding involving matters specified in [IC 33-5-2-4] (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

Chapter 72. Scott County

SECTION 1011. IC 33-4-1-71 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-71] Sec. 1. ~~The county of~~ Scott ~~shall be and constitute~~ **County constitutes** the sixth judicial circuit. ~~of the State of Indiana.~~

SECTION 1012. IC 33-5-38.9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.9-1] Sec. 2. **(a)** There is established a court of record to be known as the Scott superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Scott Superior Court, Scott County, Indiana".~~ **The Scott superior court is a standard superior court as described in IC 33-29-1.**

(c) Scott County comprises the judicial district of the court.

SECTION 1013. IC 33-5-38.9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.9-7] Sec. 3. The **Scott superior** court **has one (1) judge who** shall hold sessions in Scottsburg. ~~Indiana. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Scott County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 1014. IC 33-5-38.9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.9-3] Sec. 4. The

Scott superior court has the same jurisdiction as the Scott circuit court.

SECTION 1015. IC 33-5-38.9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-38.9-11] Sec. 5. The **Scott superior** court has a standard small claims and misdemeanor division.

Chapter 73. Shelby County

SECTION 1016. IC 33-4-1-72 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-72] Sec. 1. ~~The county of~~ Shelby ~~shall constitute~~ **County constitutes** the sixteenth judicial circuit.

SECTION 1017. IC 33-5-39-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-39-1] Sec. 2. (a) There ~~is~~ **are** established ~~a~~ **two (2) courts of record to be known as the Shelby** superior court No. 1 ~~in and for the county of Shelby, Indiana. The court shall consist of one (1) judge who shall be elected for a term of six (6) years, beginning on the first day of January after the judge's election, and until a successor is duly elected and qualified. Every six (6) years, the voters of Shelby County shall elect at the general election a judge for the superior court.~~

~~(b) An additional court is established to be known as~~ **and the** Shelby superior court No. 2. ~~Shelby superior court No. 2 has one (1) judge, who is elected at the general election every six (6) years in Shelby County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.~~

~~(c) To be eligible to hold office as a judge of a Shelby superior court, a person must be:~~

~~(1) a resident of Shelby County;~~

~~(2) less than seventy (70) years of age at the time of taking office; and~~

~~(3) admitted to the practice of law in Indiana.~~

(b) Except as otherwise provided in this chapter, each Shelby superior court is a standard superior court as described in IC 33-29-1.

SECTION 1018. IC 33-5-39-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-39-2] ~~Sec. 2. (a) The~~

(c) Shelby County ~~of Shelby, in the state of Indiana, shall be and constitute~~ **comprises** the judicial district of the courts. ~~The courts are courts of record and general jurisdiction.~~

~~(b) The courts shall be known as Shelby superior court No. 1 and Shelby superior court No. 2. Shelby superior court No. 1 shall have a seal containing the words "Shelby Superior Court No. 1 of Shelby County, Indiana", and Shelby superior court No. 2 shall have a seal containing the words "Shelby Superior Court No. 2 of Shelby County,~~

~~Indiana".~~

SECTION 1019. IC 33-5-39-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-39-6] Sec. 3. (a) Each **Shelby superior** court **has one (1) judge who** shall hold ~~its~~ sessions in the Shelby County courthouse in ~~the city of~~ Shelbyville. ~~Indiana. and the board of commissioners of Shelby County shall:~~

~~(1) provide and maintain, in the courthouse, a suitable and convenient courtroom for the holding of each court, together with a convenient jury room and offices for the presiding judge and the official court reporter; and~~

~~(2) provide all necessary furniture and equipment for the rooms and offices and all necessary dockets, books, and records for each court.~~

~~(b) The board of commissioners of Shelby County shall have sole and exclusive control over the choice of a courtroom and furnishing it for court use.~~

~~(c) The county council of Shelby County shall appropriate sufficient funds from the general fund of the county:~~

~~(1) to defray the expense of equipping and furnishing the courtrooms, jury rooms, and offices of the judges and court reporters for the courts; and~~

~~(2) for the maintenance of the courtrooms and offices and for all other expenses incidental to the conduct of each court.~~

SECTION 1020. IC 33-5-39-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-39-9] Sec. 4. (a) **This section does not apply to criminal cases.**

(b) If the transcript of the original papers in a civil action or proceeding received by the clerk of the **Shelby** circuit **court** and **Shelby** superior courts ~~of Shelby County~~ on change of venue from another county contains an order of the court from which venue was changed designating the court to which the case is to be transferred, the clerk shall file the action or proceeding on the docket of the designated court.

~~(b)~~ **(c)** If the transcript of the original papers in a civil action or proceeding ~~contains no~~ **does not contain an** order designating the court to which the case is to be transferred, the clerk shall alternately file each action or proceeding on the docket of the **Shelby** circuit court and the docket of the **Shelby** superior courts depending on the order and sequence in which the papers of the cases reach the clerk.

~~(c) This section does not apply to criminal cases.~~

SECTION 1021. IC 33-5-39-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-39-10] Sec. 5. (a) **This section does not apply to criminal cases.**

(b) Notwithstanding IC 33-29-1-9, after any action or proceeding is docketed in a **Shelby** superior court or the **Shelby** circuit court on

change of venue, all ~~of~~ the parties who have appeared in the case in person or by counsel may agree on and request a transfer from a superior court to the circuit court or from the circuit court to a superior court.

~~(b)~~ **(c)** Upon the agreement of all parties, the court in which the action is ~~then~~ pending shall order the case transferred to the other court, and the clerk shall transmit the original papers of the case to the other court and docket the case in the other court without any transcript being required.

~~(c)~~ **(d)** All further proceedings in the case shall take place in the court to which the case is transferred. If the case is one in which the prosecuting attorney is required to appear and defend, and if a party fails to appear or to employ counsel, the prosecuting attorney has the right to agree to the transfer ~~in lieu~~ **instead** of the nonappearing party or counsel.

~~(d) This section does not apply to criminal cases.~~

SECTION 1022. IC 33-5-39-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-39-7(a)] Sec. 6. ~~(a)~~ The **Shelby superior** courts have the same jurisdiction as the Shelby circuit court, except that Shelby superior court No. 1 has exclusive juvenile jurisdiction in the county.

[33-5-39-7(b)] Sec. 7. ~~(b)~~ Shelby superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 74. Spencer County

SECTION 1023. IC 33-4-1-73 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-73] Sec. 1. (a) ~~The county of~~ Spencer ~~shall be and constitute~~ **County constitutes** the eighty-fourth judicial circuit. ~~of the State of Indiana.~~

(b) The Spencer circuit court has a standard small claims and misdemeanor division.

Chapter 75. Starke County

SECTION 1024. IC 33-4-1-74 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-74] Sec. 1. (a) ~~The county of~~ Starke ~~shall be and constitute~~ **County constitutes** the forty-fourth judicial circuit. ~~of the State of Indiana.~~

(b) The Starke circuit court has a standard small claims and misdemeanor division.

SECTION 1025. IC 33-4-1-74.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-74.3] Sec. 2. The judge of the Starke circuit court may appoint one (1) full-time magistrate under [IC 33-4-7.] The magistrate continues in office until removed by the judge.

SECTION 1026. IC 33-4-1-74.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-74.6] Sec. 3. All inherent powers of judicial mandate in Starke county remain vested

solely in the judge of the Starke circuit court.

Chapter 76. Steuben County

SECTION 1027. IC 33-4-1-76 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-76] Sec. 1. ~~The County of~~ **(a)** Steuben ~~shall be and constitute~~ **County constitutes** the eighty-fifth judicial circuit. ~~of the State of Indiana.~~

SECTION 1028. IC 33-4-1-76.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-76.1] ~~Sec. 76.1. (a)~~ **(b)** The judges of the Steuben circuit and superior courts may jointly appoint one (1) full-time magistrate under [IC 33-4-7] to serve the circuit and superior courts.

~~(b)~~ **(c)** The magistrate continues in office until removed by the judges of the Steuben circuit and superior courts.

SECTION 1029. IC 33-5-40.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40.1-1] Sec. 2. **(a)** There is established a court of record to be known as the Steuben superior court. ~~(referred to as the court in this chapter).~~

(b) ~~The court may have a seal containing the words "Steuben Superior Court, Steuben County, Indiana".~~ **The Steuben superior court is a standard superior court as described in IC 33-29-1.**

(c) Steuben County comprises the judicial district of the court.

SECTION 1030. IC 33-5-40.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40.1-7] Sec. 3. **(a)** The **Steuben superior** court **has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the Steuben County courthouse in Angola; ~~Indiana,~~ or

(2) ~~in such~~ other places in the county ~~as~~ **that** the Steuben County executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Steuben County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 1031. IC 33-5-40.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40.1-3] Sec. 4. The **Steuben superior** court has the same jurisdiction as the Steuben circuit court.

SECTION 1032. IC 33-5-40.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40.1-11] Sec. 5. The **Steuben superior** court has a standard small claims and misdemeanor division.

Chapter 77. Sullivan County

SECTION 1033. IC 33-4-1-77, AS AMENDED BY P.L.196-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-77] Sec. 1. (a) ~~The County of~~ Sullivan ~~shall be~~

~~and constitute~~ **County constitutes** the fourteenth judicial circuit.

(b) The judge of the Sullivan circuit court and the judge of the Sullivan superior court may jointly appoint one (1) full-time magistrate under [IC 33-4-7] to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judge of the Sullivan circuit court and the judge of the Sullivan superior court.

SECTION 1034. IC 33-5-40.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40.5-1] Sec. 2. **(a)** There is established a court of record to be known as the Sullivan superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Sullivan Superior Court, Sullivan County, Indiana".~~ **The Sullivan superior court is a standard superior court as described in IC 33-29-1.**

(c) Sullivan County comprises the judicial district of the court.

SECTION 1035. IC 33-5-40.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40.5-7] Sec. 3. **(a)** The **Sullivan superior** court **has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the Sullivan County courthouse in Sullivan; ~~Indiana,~~ or

(2) ~~in such~~ other places in the county ~~as~~ **that** the Sullivan County executive ~~may provide.~~ **provides.** ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Sullivan County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 1036. IC 33-5-40.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40.5-3] Sec. 4. The **Sullivan superior** court has the same jurisdiction as the Sullivan circuit court.

SECTION 1037. IC 33-5-40.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-40.5-3] Sec. 5. The **Sullivan superior** court has a standard small claims and misdemeanor division.

Chapter 78. Switzerland County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 1038. IC 33-4-1-78 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-78] Sec. 2. ~~The counties of~~ Jefferson **County** and Switzerland ~~shall~~ **County** constitute the fifth judicial circuit. ~~of the State of Indiana.~~

SECTION 1039. IC 33-5-37.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-1] Sec. 3. **(a)** There is established a court of record to be known as the Ohio and Switzerland superior court. ~~(referred to as "the court" in this chapter).~~

(b) The court may have a seal containing the words "Ohio and

Switzerland Superior Court, Ohio and Switzerland Counties, Indiana". Ohio and Switzerland counties comprise the judicial district of the court.

SECTION 1040. IC 33-5-37.7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-2] Sec. 4. The **Ohio and Switzerland superior** court has one (1) judge, who shall be elected at the general election every six (6) years in Ohio and Switzerland counties. ~~His~~ **The judge's** term begins January 1 following ~~his~~ **the judge's** election and ends December 31 following the election of ~~his~~ **the judge's** successor.

SECTION 1041. IC 33-5-37.7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-4] Sec. 5. The judge of the **Ohio and Switzerland superior** court has the same powers relating to the conduct of the business of the court as a judge of **a** circuit court under [IC 33-4-2.]

SECTION 1042. IC 33-5-37.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-5] Sec. 6. The judge of the **Ohio and Switzerland superior** court is entitled to the salary set out in [IC 33-13-12.] The salary shall be paid in the same manner as the salary of a circuit court judge, and the portion of the salary to be paid by the counties shall be paid by Ohio and Switzerland counties in equal ~~portions.~~ **amounts.**

SECTION 1043. IC 33-5-37.7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-11] Sec. 7. The **Ohio and Switzerland superior** court shall hold its sessions in the courthouse in Rising Sun ~~Indiana,~~ and in Vevay ~~Indiana,~~ or in ~~such~~ other places in the county as the board of county commissioners of Ohio or Switzerland County may provide. Each board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. Each county council shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.

SECTION 1044. IC 33-5-37.7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-9] Sec. 8. The judge of the **Ohio and Switzerland superior** court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for a circuit court. Their salaries shall be paid monthly out of the treasuries of Ohio and Switzerland counties as provided by law.

SECTION 1045. IC 33-5-37.7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-10] Sec. 9. The clerk of the **Ohio and Switzerland superior** court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall

be kept separately from the books and papers of other courts.

SECTION 1046. IC 33-5-37.7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-12] Sec. 10. The **Ohio and Switzerland** superior court shall, during each calendar year, appoint one (1) resident of Ohio County and one (1) resident of Switzerland County to act as jury commissioners for the superior court. These jury commissioners shall:

(1) be appointed by a judge of the superior court;

(2) be qualified to act as jury commissioners; and

(3) prepare and draw the jury for the superior court;

in the same manner as is required for jury commissioners of circuit courts in Ohio and Switzerland counties. The clerks of the circuit courts of Ohio and Switzerland counties and the sheriffs of Ohio and Switzerland counties shall issue and serve process for the superior court in relation to jury selection and summoning in the same manner as for those circuit courts. The superior court may order the time when jurors must attend court, and may order the selection and summoning of other jurors for the superior court whenever necessary.

SECTION 1047. IC 33-5-37.7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-14] Sec. 11. The judge of the circuit courts in Ohio or Switzerland counties may, with the consent of the judge of the **Ohio and Switzerland superior** court, transfer any action or proceeding from the circuit court that originated in Ohio or Switzerland County to the **Ohio and Switzerland superior** court. The judge of the **Ohio and Switzerland superior** court may, with consent of the judge of such a circuit court, transfer any action or proceeding from the **Ohio and Switzerland superior** court to the circuit court in the county where that action or proceeding originated.

SECTION 1048. IC 33-5-37.7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-15] Sec. 12. The judge of the circuit court in Ohio or Switzerland County may, with the consent of the judge of the **Ohio and Switzerland superior** court, sit as a judge of the court in any matter over which ~~he~~ **the judge** would have had jurisdiction as circuit court judge, as if ~~he~~ **the judge** was an elected judge of the court. The judge of the **Ohio and Switzerland superior** court may, with consent of the judge of ~~such~~ a circuit court, sit as a judge of a circuit court in Ohio or Switzerland County in any matter over which ~~he~~ **the judge** would have jurisdiction as superior judge, as if ~~he~~ **the judge** ~~was~~ **were** an elected judge of that circuit court.

SECTION 1049. IC 33-5-37.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-3] Sec. 13. The **Ohio and Switzerland superior** court has the same jurisdiction as a circuit court under IC 33-4-3 and IC 33-4-4.

SECTION 1050. IC 33-5-37.7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-37.7-16] Sec. 14. The Ohio and Switzerland superior court has a standard small claims and misdemeanor division.

Chapter 79. Tippecanoe County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.** [QUERY: Can the Tippecanoe chapters be combined?]

SECTION 1051. IC 33-4-1-79 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-79] Sec. 2. ~~The county of~~ Tippecanoe ~~shall constitute~~ **County constitutes** the twenty-third **judicial** circuit.

SECTION 1052. IC 33-5-41-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-1] Sec. 3. **(a)** There ~~hereby~~ is established a ~~superior~~ court ~~in the county~~ of **record to be known as the superior court of** Tippecanoe ~~Indiana, which shall consist of~~ **County.**

(b)The superior court has one (1) judge, who shall hold ~~his~~ office for six (6) years, beginning on the first day of January after ~~his~~ **the judge's** election, and until ~~his~~ **the judge's** successor is elected and qualified. ~~if he shall so long behave well.~~ The judge shall be elected every six (6) years at the general election. ~~The court shall be known as the "Superior Court of Tippecanoe County."~~

SECTION 1053. IC 33-5-41-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-2] Sec. 4. The judge of ~~said~~ **the superior** court shall cause to be provided a seal for ~~said~~ **the** court. ~~which shall~~ **The seal must** contain on its face the words "Superior Court of Tippecanoe County". ~~and such device as he may think proper.~~ A description **and impression** of ~~said~~ **the** seal ~~together with an impression of the same,~~ shall be spread upon the order book of ~~said~~ **the** court. ~~Provided, That until such seal is procured, the clerk may seal with his private seal in scroll, all process, which, by law, is required to be sealed.~~

SECTION 1054. IC 33-5-41-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-5] Sec. 5. The ~~said~~ **superior** court shall hold its sessions at the **Tippecanoe County** courthouse ~~of the county,~~ or at ~~such~~ **any** other convenient place as the board of county commissioners or the judge of ~~said~~ **the** court may provide at ~~the county seat.~~ **in Lafayette.**

SECTION 1055. IC 33-5-41-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-6] Sec. 6. ~~Said~~ **The superior** court ~~shall have~~ **has** the same original and appellate jurisdiction ~~now~~ possessed by the Tippecanoe circuit court in civil and criminal cases, but not in matters of probate or juvenile jurisdiction.

SECTION 1056. IC 33-5-41-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-7] Sec. 7. The process of ~~said~~ **the superior** court ~~shall~~ **must** have the seal affixed, and be attested, directed, served, and returned, and be in **the** form as is ~~or may be~~ provided for process issuing from the circuit court.

SECTION 1057. IC 33-5-41-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-8] Sec. 8. ~~Said~~ **The superior** court ~~shall be~~ **is** a court of record and of general jurisdiction, and its judgments, decrees, orders, and proceedings ~~shall~~ have the same force and effect as those of the circuit court and shall be enforced in the same manner.

SECTION 1058. IC 33-5-41-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-9] Sec. 9. The ~~said~~ **superior** court ~~or the judge thereof in vacation, shall have power to~~ **may:**

(1) issue and direct all process to courts of inferior jurisdiction, ~~and to~~ corporations, and individuals ~~which shall be~~ necessary in exercising the **court's** jurisdiction ~~hereby conferred,~~ and for the regular execution of the law; ~~and to~~

(2) make all proper judgments, sentences, decrees, orders, and injunctions; ~~and to~~

(3) issue all process and executions; and ~~to do such~~

(4) perform other acts ~~as may be~~ necessary to carry into effect the same;[QUERY: What does "same" refer to?]

in conformity with the Constitution **of the state of Indiana** and ~~laws of the~~ state **law.**

SECTION 1059. IC 33-5-41-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-10] Sec. 10. The judge of ~~said~~ **the** court ~~shall have the same power,~~ **may** in term time or in vacation, [QUERY: Needed?] ~~to~~ grant restraining orders, injunctions, and writs of ne exeat, ~~to~~ issue writs of habeas corpus and of mandate and prohibition, ~~to~~ appoint receivers, master commissioners, 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 said court, ~~as is now, or may hereafter be~~ conferred on circuit courts, or ~~the~~ **circuit court** judges. ~~thereof.~~

SECTION 1060. IC 33-5-41-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-11] Sec. 11. The judge of ~~said~~ **the** court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the court, not repugnant to ~~the laws of this state,~~ **state law** and ~~shall have all~~ **has** the power incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and ~~enforcing~~ **the enforcement of** its orders. ~~and~~ The judge of ~~said~~ **the** court ~~shall~~

~~have full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgments of deeds, and ~~to~~ give all necessary certificates for the authentication of the records and proceedings in ~~said~~ **the** court.

SECTION 1061. IC 33-5-41-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-12] Sec. 12. If the judge of ~~said~~ **the** court ~~shall be~~ **is** interested, or in the progress of the cause ~~shall become~~ **becomes** interested, in ~~the event of any~~ **an** action or **a** matter pending in ~~said~~ **the** court, the ~~same~~ **action or matter** shall be removed for hearing and determination to the **Tippecanoe** circuit court. ~~of the county.~~

SECTION 1062. IC 33-5-41-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-13] Sec. 13. Whenever an affidavit for a change of venue is filed in ~~said~~ **the superior** court for any of the causes embraced in IC 34-35-1-1(1), IC 34-35-1-1(2), IC 34-35-1-1(6), or IC 34-35-1-1(7), ~~some~~ **a** judge of a circuit or superior court shall be called to hear and determine the same [QUERY: What does "same" refer to?] as provided by law for changes of venue in causes pending in the circuit court. And if the causes alleged in the affidavit and embraced in IC 34-35-1-1(3), IC 34-35-1-1(4), and IC 34-35-1-1(5), ~~then~~ the change shall be granted, and the cause directed to the circuit court of some other county, as provided in cases of changes of venue from the circuit court, and the court to which the case is sent ~~shall have~~ **has** jurisdiction to hear and determine the cause and render judgment. ~~therein.~~

SECTION 1063. IC 33-5-41-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-14] Sec. 14. The clerk shall, under the direction of the judge, provide for ~~said~~ **the** court, order books, judgment dockets, execution dockets, fee books, and ~~such~~ other books as ~~may be~~ necessary, and all the books, ~~and~~ papers, and proceedings of ~~said~~ **the** court shall be kept distinct and separate from those of other courts.

SECTION 1064. IC 33-5-41-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-41-17] Sec. 15. In ~~all cases,~~ **a case** where, under ~~existing or future laws of this~~ state **law,** a person has the right of appeal from the circuit court ~~or a judge thereof in vacation,~~ [QUERY: Tim OK?] to the supreme court, an appeal may be had from ~~said~~ **the** superior court. ~~or the judge thereof, in vacation.~~

Chapter 79.2. Tippecanoe Superior Court No. 2

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 1065. IC 33-5-42-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42-1] Sec. 2. There is ~~hereby~~ created a **court of record to be known as the** Superior Court No. 2. ~~in and for the county~~ of Tippecanoe ~~Indiana, which~~ **County. The**

court ~~shall consist of~~ **has** one (1) judge, who ~~shall hold his~~ **holds** office for a term of six (6) years, beginning on the first day of January after ~~his~~ **the judge's** election, and until ~~his~~ **the judge's** successor is elected and qualified. The judge ~~of said court~~ shall be elected every six (6) years at the general election.

SECTION 1066. IC 33-5-42-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42-2] Sec. 3. ~~The superior court No. 2, created by the provisions of this chapter, shall be known as "Superior Court No. 2 of Tippecanoe County" and the county of~~ Tippecanoe ~~shall constitute~~ **County constitutes** the judicial district of ~~said court. The court shall be a court of record and shall have a seal containing the words~~ superior court No. 2. ~~Tippecanoe County, Indiana."~~

SECTION 1067. IC 33-5-42-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42-3] Sec. 4. **(a)** The clerk of the Tippecanoe circuit court shall be the clerk of superior court No. 2 of Tippecanoe County and the sheriff of Tippecanoe County shall be the sheriff of superior court No. 2 of Tippecanoe County. The clerk and sheriff shall attend ~~said~~ court and discharge all the duties pertaining to their respective office as they are ~~now or may hereafter be~~ required to do by law with reference to the Tippecanoe Circuit Court.

(b) The judge of superior court No. 2 of Tippecanoe County shall appoint a bailiff and an official reporter for ~~said~~ **the** court to serve ~~as such~~ during the pleasure of the court. ~~and~~ The judge shall fix their compensation within the limits and in the manner ~~as may be~~ provided by law concerning bailiffs and official court reporters. ~~and~~ The compensation shall be paid monthly out of the treasury of Tippecanoe County, in the manner provided by law. ~~The salary of the judge shall be the same as is provided by law for judges of superior courts.~~

SECTION 1068. IC 33-5-42-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42-4] ~~Sec. 4. The term of court for superior court No. 2 of Tippecanoe County shall be the calendar year and the judge of said court shall have the same power to act in all matters and proceedings through the entire calendar year.~~

SECTION 1069. IC 33-5-42-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42-5] Sec. 5. Superior Court No. 2 of Tippecanoe County shall hold ~~its~~ sessions in a place to be determined by the county council of Tippecanoe County. ~~Indiana; and~~ The board of county commissioners of Tippecanoe County shall provide and maintain in the courthouse or at ~~such~~ other convenient place as the board of commissioners or the judge of ~~said~~ **the** court may provide at the county seat, a suitable and convenient courtroom for the holding of ~~said~~ court together with a suitable and convenient jury room and offices for the judge and the official court reporter. The board of county commissioners shall provide all necessary furniture and

equipment for the rooms and offices of the court and all necessary dockets, books, and records for the court. The county council shall make the necessary appropriations from the general fund of the county for the purpose of carrying out ~~the provisions of~~ this chapter.

SECTION 1070. IC 33-5-42-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42-6] Sec. 6. Superior court No. 2 of Tippecanoe County ~~shall have~~ **has** the same original and appellate jurisdiction ~~now~~ possessed by the Tippecanoe circuit court in civil and criminal cases, but not in matters of probate or juvenile jurisdiction.

SECTION 1071. IC 33-5-42-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42-7] Sec. 7. The judge of superior court No. 2 of Tippecanoe County ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of superior court No. 2 of Tippecanoe County. ~~not repugnant to the laws of the state of Indiana or the rules of the Supreme Court of the state of Indiana.~~ The judge ~~shall have~~ **has** all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce ~~his~~ **the judge's** orders. The judge ~~of said court shall have full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgments of deeds, and ~~to~~ give all necessary certificates for the authentication of records and proceedings of ~~said~~ **the** court and ~~to~~ make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

SECTION 1072. IC 33-5-42-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42-11] Sec. 8. **(a)** The judge of the Superior Court No. 2 of Tippecanoe County may, with the consent of the judge of the superior court of Tippecanoe County, transfer any action, cause, or proceeding pending in superior court No. 2 of Tippecanoe County to the superior court of Tippecanoe County by transferring all original papers, instruments and orders filed in ~~such~~ **the** action, cause, or proceeding without further transcript ~~thereof~~ to be redocketed and disposed of as if originally filed with ~~said~~ **the** superior court of Tippecanoe County, ~~provided~~ **if:**

(1) the ~~same~~ **action, cause, or proceeding** could have been originally filed and docketed in ~~such~~ **the** superior court of Tippecanoe County; **and**

(2) ~~whenever in the opinion of~~ both judges ~~such~~ **believe the** transfer will expedite the disposition of ~~such~~ **the** case, expedite the work of either court, or equalize the work load between the two (2) courts.

(b) The judge of the superior court of Tippecanoe County may, with the consent of the judge of the superior court No. 2 of Tippecanoe

County, transfer any action, cause, or proceeding pending in the superior court of Tippecanoe County to the superior court No. 2 of Tippecanoe County by transferring all original papers, instruments, and orders filed in ~~such~~ **the** action, cause, or proceeding without further transcript ~~thereof~~ to be redocketed and disposed of as if originally filed with ~~said~~ **the** superior court No. 2 of Tippecanoe County ~~provided~~ **if:**

(1) the ~~same~~ **action, cause, or proceeding** could have been originally filed and docketed in ~~such~~ **the** superior court No. 2 of Tippecanoe County; **and**

(2) ~~whenever in the opinion of~~ both judges **believe** ~~such~~ **the** transfer will expedite the disposition of ~~such~~ **the** case, expedite the work of either court, or equalize the work load between the two **(2)** courts.

Chapter 79.3. Tippecanoe Superior Court No. 3

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 1073. IC 33-5-42.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-1] Sec. 2. There is established a court of record to be known as the Tippecanoe superior court No. 3 (referred to as the court in this chapter). The court may have a seal containing the words "Tippecanoe Superior Court No. 3, Tippecanoe County, Indiana". Tippecanoe County comprises the judicial district of the court.

SECTION 1074. IC 33-5-42.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-2] Sec. 3. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Tippecanoe County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must:

(1) be a resident of Tippecanoe County;

(2) be ~~under~~ **less than** seventy (70) years of age at the time of taking office; and

(3) be admitted to the bar of Indiana.

SECTION 1075. IC 33-5-42.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-3] Sec. 4. The court has the same jurisdiction as the Tippecanoe circuit court except that the court does not have probate jurisdiction.

SECTION 1076. IC 33-5-42.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-4] Sec. 5. The judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Tippecanoe circuit court. The judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 1077. IC 33-5-42.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-5] Sec. 6. The

judge of the court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Tippecanoe circuit court. Their salaries shall be paid monthly out of the treasury of Tippecanoe County as provided by law.

SECTION 1078. IC 33-5-42.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-6] Sec. 7. The clerk of the court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

SECTION 1079. IC 33-5-42.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-7] Sec. 8. The court shall hold its sessions in the Tippecanoe County courthouse in Lafayette ~~Indiana,~~ or in ~~such~~ other places in the county as the Tippecanoe County executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as ~~may be~~ necessary. The Tippecanoe County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

SECTION 1080. IC 33-5-42.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-8] Sec. 9. The judge of the Tippecanoe circuit court or Tippecanoe superior court No. 1 or No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the circuit court or superior court No. 1 or No. 2 to the court and the judge of the court may, with consent of the judge of the circuit or other superior court, transfer any action or proceeding from the court to the circuit or other superior court, if ~~such~~ **the** action **or proceeding** could have been originally filed in the receiving court.

SECTION 1081. IC 33-5-42.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-9] Sec. 10. The judge of the Tippecanoe circuit or other superior court may, with the consent of the judge of the court, sit as a judge of the court in any matter as if an elected judge of the court. The judge of the court may, with the consent of the judge of the ~~circiut~~ **circuit** or other superior court, sit as a judge of the ~~circiut~~ **circuit** or other superior court in any matter as if an elected judge of the circuit or other superior court.

SECTION 1082. IC 33-5-42.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-10] Sec. 11. The jury commissioners appointed by the judge of the Tippecanoe circuit court shall serve as the jury commissioners for the court. Juries shall be selected in the same manner as juries for the Tippecanoe circuit court. The grand jury selected for the Tippecanoe circuit court shall also serve as the grand jury for the court as ~~may be~~ necessary.

SECTION 1083. IC 33-5-42.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.1-11] Sec. 12. The judge of the court may adopt rules for conducting the business of the court, consistent with the laws and court rules of Indiana. However, when adopting local rules to govern in all the courts of record in the county, the judges of the circuit and superior courts shall act in concert. ~~In the event of~~ **If there is a** disagreement, the decision of a majority of the judges controls. ~~In the event of a~~ **If there is a** tie, the decision joined by the circuit court judge controls.

Chapter 79.4. Tippecanoe Superior Courts No. 4, No. 5, and No. 6

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 1084. IC 33-5-42.2-1, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-1] Sec. 2. There are established three (3) courts of record ~~in Tippecanoe County~~ to be known as:

(1) Tippecanoe superior court No. 4;

(2) Tippecanoe superior court No. 5; and

(3) Tippecanoe superior court No. 6;

(referred to as "the court" in this chapter). Tippecanoe superior court No. 4, No. 5, and No. 6 may each have a seal containing the words "Tippecanoe Superior Court No. (Insert Court Division Number), Tippecanoe County, Indiana". Tippecanoe County comprises the judicial district of each court.

SECTION 1085. IC 33-5-42.2-2, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-2] Sec. 3. (a) Tippecanoe superior court No. 4, No. 5, and No. 6 each has one (1) judge, who shall be elected at the general election every six (6) years in Tippecanoe County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must be:

(1) a resident of Tippecanoe County;

(2) less than seventy (70) years of age at the time of taking office; and

(3) admitted to the bar of Indiana.

SECTION 1086. IC 33-5-42.2-3, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-3] Sec. 4. (a) Except as provided in subsection (b), each court has the same jurisdiction as the Tippecanoe circuit court.

(b) Tippecanoe superior court No. 4, No. 5, and No. 6 do not have probate or juvenile jurisdiction.

SECTION 1087. IC 33-5-42.2-4, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: [33-5-42.2-4] Sec. 5. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 have the same powers relating to the conduct of the business of Tippecanoe superior court No. 4, No. 5, and No. 6 as the judge of the Tippecanoe circuit court. The judge of each court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 1088. IC 33-5-42.2-5, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-5] Sec. 6. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6:

(1) shall each appoint a bailiff and an official court reporter for the court; and

(2) may each appoint other court personnel necessary to facilitate and transact the business of the court.

A person appointed under this section serves at the pleasure of the judge appointing the person. Their salaries shall be fixed in the same manner as the salaries of the bailiff, official court reporter, and other personnel for the Tippecanoe circuit court. Their salaries shall be paid monthly out of the treasury of Tippecanoe County as provided by law.

SECTION 1089. IC 33-5-42.2-6, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-6] Sec. 7. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 shall jointly appoint one (1) full-time magistrate under [IC 33-4-7.] The magistrate continues in office until jointly removed by the judges of the courts.

SECTION 1090. IC 33-5-42.2-7, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-7] Sec. 8. The clerk of the circuit court, under the direction of the judge of a court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

SECTION 1091. IC 33-5-42.2-8, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-8] Sec. 9. Each court shall hold its sessions in the Tippecanoe County courthouse in Lafayette ~~Indiana,~~ or in other places in the county that the Tippecanoe county executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary for each court. The Tippecanoe County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

SECTION 1092. IC 33-5-42.2-9, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-9] Sec. 10. The jury commissioners

appointed by the judge of the Tippecanoe circuit court shall serve as the jury commissioners for Tippecanoe superior court No. 4, No. 5, and No. 6. Juries shall be selected in the same manner as juries for the Tippecanoe circuit court. The grand jury selected for the Tippecanoe circuit court shall also serve as the grand jury for a court as may be necessary.

SECTION 1093. IC 33-5-42.2-10, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-10] Sec. 11. The judge of the Tippecanoe circuit court or another superior court in the county may, with the consent of the judge of Tippecanoe superior court No. 4, No. 5, or No. 6, transfer any action or proceeding from the circuit court to Tippecanoe superior court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may, with the consent of the judge of the circuit court or the judge of another superior court in the county, transfer any action or proceeding from Tippecanoe superior court No. 4, No. 5, or No. 6 to the circuit court or the other superior court in the county.

SECTION 1094. IC 33-5-42.2-11, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-11] Sec. 12. The judge of the Tippecanoe circuit court or another superior court in the county may, with the consent of the judge of Tippecanoe superior court No. 4, No. 5, or No. 6, sit as a judge of the court in any matter as if the judge of the circuit court or the other superior court were an elected judge of Tippecanoe superior court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may, with consent of the judge of the circuit court or the judge of another superior court in the county, sit as a judge of the circuit court or the other superior court in any matter as if the judge of Tippecanoe superior court No. 4, No. 5, or No. 6 were an elected judge of the circuit court or the other superior court.

SECTION 1095. IC 33-5-42.2-12, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-12] Sec. 13. Tippecanoe superior court No. 4, No. 5, and No. 6 each has a standard small claims and misdemeanor division.

SECTION 1096. IC 33-5-42.2-13, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-13] Sec. 14. (a) Except as provided in this section, a judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may adopt rules for conducting business in the court.

(b) Rules adopted under this section must be consistent with the laws of Indiana and the rules adopted by the supreme court.

(c) When adopting local rules to govern in all the courts of record in the county, the judge of the circuit court and the judges of all

superior courts in the county shall act in concert. ~~In the event of~~ **If there is** a disagreement, the decision of a majority of the judges controls. ~~In the event of~~ **If there is** a tie, the decision joined by the circuit court judge controls.

(d) The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 shall jointly adopt rules to provide for the coordination and conduct of the standard small claims and misdemeanor divisions in the courts.

SECTION 1097. IC 33-5-42.2-14, AS ADDED BY P.L.196-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-42.2-14] Sec. 15. (a) The judges of Tippecanoe superior court No. 4, No. 5, and No. 6, by rules jointly adopted by the courts, shall designate one (1) of the judges of the courts as presiding judge for the standard small claims and misdemeanor divisions of the courts.

(b) The presiding judge shall insure that the standard small claims divisions operate efficiently.

Chapter 80. Tipton County

SECTION 1098. IC 33-4-1-80 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-80] Sec. 1. (a) ~~The county of~~ Tipton ~~shall constitute~~ **County constitutes** the thirty-sixth judicial circuit.

(b) The Tipton circuit court has a standard small claims and misdemeanor division.

Chapter 81. Union County

SECTION 1099. IC 33-4-1-81 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-81] Sec. 1. (a) ~~The county of~~ Union ~~shall constitute~~ **County constitutes** the eighty-ninth judicial circuit.

(b) The Union circuit court has a standard small claims and misdemeanor division.

Chapter 82. Vanderburgh County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 1100. IC 33-4-1-82 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-82] Sec. 2. ~~The county of~~ Vanderburgh ~~shall constitute~~ **County constitutes** the first judicial circuit.

SECTION 1101. IC 33-4-1-82.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-82.1] Sec. 3. The judge of the Vanderburgh circuit court may appoint one (1) full-time magistrate under [IC 33-4-7.] The magistrate continues in office until removed by the judge.

SECTION 1102. IC 33-4-1-82.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-82.4] Sec. 4. All inherent powers of judicial mandate in Vanderburgh County remain vested in the judges of the county.

SECTION 1103. IC 33-5-43-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-1] Sec. 5. There ~~shall be and~~ is ~~hereby~~ established a superior court in Vanderburgh County, ~~Indiana,~~ which ~~court shall consist~~ **consists** of seven (7) judges who ~~shall~~ hold ~~their~~ office for six (6) years and until their successors ~~shall have been~~ **are** elected and qualified. ~~In addition to said seven (7) judges, the judge of the Vanderburgh Circuit Court may sit as a judge of said Vanderburgh Superior Court as hereinafter provided in this chapter.~~

SECTION 1104. IC 33-5-43-1.1, AS AMENDED BY P.L.196-1999, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-1.1] Sec. 6. (a) The judges of the Vanderburgh superior court may jointly appoint not more than four (4) full-time magistrates under [IC 33-4-7.]

(b) A magistrate continues in office until jointly removed by the judges.

SECTION 1105. IC 33-5-43-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-2] Sec. 7. The court shall be named ~~and styled~~ Vanderburgh Superior Court.

SECTION 1106. IC 33-5-43-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-3] Sec. 8. The court shall have a seal consisting of a circular disc containing the words "Vanderburgh Superior Court," "Indiana," "Seal" and ~~such~~ **a** design as the court may determine, an impression of which shall be spread of record upon the orderbook of the court.

SECTION 1107. IC 33-5-43-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-4] Sec. 9. The **superior** court has original, appellate, concurrent, and coextensive jurisdiction with the circuit court in all civil cases and criminal cases and jurisdiction concurrent and coextensive with the circuit court in all cases of appeal from boards of county commissioners and city courts, and all other appellate jurisdiction ~~now~~ vested in ~~or which may hereafter be vested by law in~~ the circuit court. The **superior** court has original and exclusive jurisdiction in all matters pertaining to the probate and the settlement of decedents' estates, trusts, and guardianships, the probate of wills, proceedings to resist probate of wills, and proceedings to contest wills, the appointment of guardians, assignees, executors, administrators, and trustees, and the administration and settlement of estates of protected persons (as defined in IC 29-3-1-13) and deceased persons, and of trusts, assignments, adoptions, and surviving partnerships, and all other probate matters.

SECTION 1108. IC 33-5-43-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-5] Sec. 10. The **superior** court has exclusive juvenile jurisdiction in Vanderburgh

County.

SECTION 1109. IC 33-5-43-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-6] Sec. 11. The **superior** court ~~shall be~~ **is** a court of record, and its judgments, decrees, orders, and proceedings ~~shall~~ have the same force and effect and shall be enforced in the same manner as those of the circuit court.

SECTION 1110. IC 33-5-43-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-7] Sec. 12. The judges of the **superior** court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the court, ~~not repugnant to the laws of this state, and the Rules of the Supreme Court of Indiana~~ and ~~shall~~ have ~~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. The judges ~~shall have the full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and ~~to~~ give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 1111. IC 33-5-43-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-8] Sec. 13. The judges of the **superior** court ~~shall~~ have the same powers to grant restraining orders, injunctions and writs of ne exeat, 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 ~~it now or may hereafter be~~ conferred on circuit courts or the judges ~~thereof,~~ **of the circuit court,** and to appoint ~~such~~ officers necessary to facilitate the business ~~thereof.~~ **of the superior court.**

SECTION 1112. IC 33-5-43-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-10] Sec. 14. The Vanderburgh superior court shall hold ~~its~~ sessions in the Vanderburgh County courthouse in ~~the city of~~ Evansville ~~state of Indiana,~~ or its replacement. The board of county commissioners of Vanderburgh County shall provide and maintain in the courthouse suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for the judges, secretaries, and official court reporters, and ~~such~~ other facilities as ~~may be~~ necessary. The board of county commissioners shall also provide all the necessary furniture and equipment for the rooms and offices of the court.

SECTION 1113. IC 33-5-43-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-15] Sec. 15. The clerk, under the direction of the **superior** court, shall provide order books, judgment dockets, execution dockets, fee books, and ~~such~~ other

books, papers, and records ~~as may be~~ necessary for the court, and all books, papers and proceedings of the court shall be kept distinct and separate from those of other records.

SECTION 1114. IC 33-5-43-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-16] Sec. 16. The **superior** court shall maintain ~~such~~ order ~~book, or~~ books as the court ~~may determine~~ **determines** necessary for the entire court. ~~which~~ **An** order book ~~or books~~ may be signed on behalf of the court by any of the sitting judges of ~~said~~ **the** court and ~~such~~ **the** signature ~~shall be due~~ **constitutes** authentication of the actions of each of the judges in the court.

SECTION 1115. IC 33-5-43-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-17] Sec. 17. Each judge of the **superior** court shall appoint a court reporter, a bailiff, and a riding bailiff for the court whose salary shall be fixed by the court and paid as ~~now~~ provided by law, and who ~~shall serve~~ **serves** at the pleasure of the judge making ~~such~~ **the** appointment.

SECTION 1116. IC 33-5-43-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-18] Sec. 18. The **superior** court ~~shall have the right to~~ **may** appoint ~~such~~ additional officers and personnel as ~~may be~~ necessary for the proper administration of the duties of the court, whose salaries shall be fixed by the court and who ~~shall~~ serve at the pleasure of the court.

SECTION 1117. IC 33-5-43-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-19] Sec. 19. The court shall appoint ~~such~~ probation officers as are required who shall perform the same duties and receive the same compensation as is ~~now, or may hereafter be,~~ **provided** by law. ~~provided.~~

SECTION 1118. IC 33-5-43-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-20] Sec. 20. All laws of the state ~~of Indiana~~ and all rules ~~duly~~ adopted by the supreme court ~~of Indiana now in force or that may hereafter be enacted~~ governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court ~~shall be~~ **are** applicable to and govern the **superior** court. ~~hereby established.~~

SECTION 1119. IC 33-5-43-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-21] Sec. 21. (a) The clerk of the Vanderburgh circuit court and the jury commissioners appointed by the Vanderburgh circuit court shall serve as jury commissioners for ~~this~~ **the superior** court. The issuing and servicing of process shall be governed by the procedure specified in [IC 33-4-5-2] for the circuit court. The selection of jurors may be made

either:

(1) as specified for the circuit court in [IC 33-4-5-2;] or

(2) from a list of persons in the county who are at least eighteen (18) years of age and who hold a valid license issued by the bureau of motor vehicles under IC 9-24.

(b) The jurors need not serve in any particular order in which they are drawn by the jury commissioners.

(c) Any judge of the court may order the selection and summoning of other jurors for the court whenever necessary. The jurors summoned under this subsection shall serve the entire court and before any judge of the court where their service may be required.

(d) The contractor operating a license branch under IC 9-16 for Vanderburgh County shall, not later than January 1 of each year, provide to the jury commissioners of the Vanderburgh superior courts a list of all persons at least eighteen (18) years of age who hold a valid license issued by the bureau of motor vehicles.

SECTION 1120. IC 33-5-43-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-23] Sec. 22. Any party may appeal to the supreme court or the court of appeals from any order or judgment of the **superior** court in any case where ~~by existing or future laws of this state,~~ an appeal may be had from a similar order or judgment of the circuit court. The appeal ~~shall be~~ **is** governed by the law and rules governing appeals to the court of appeals and the supreme court.

SECTION 1121. IC 33-5-43-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-24] Sec. 23. The process of the **superior** court ~~shall~~ **must** have the seal affixed and be attested, directed, served, and returned, and be in **the** form as is ~~or may be,~~ provided for process issuing from the circuit court.

SECTION 1122. IC 33-5-43-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-25] Sec. 24. The **superior** court, by rules ~~duly~~ adopted by the court, shall designate one **(1)** of the judges as presiding judge and fix the time ~~he shall preside. and said~~ **the presiding judge presides. The presiding** judge ~~shall be~~ **is** responsible for the operation and conduct of the court and to seeing that the court ~~shall~~ **operates** efficiently and judicially. ~~operate.~~

SECTION 1123. IC 33-5-43-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-26] Sec. 25. Whenever any action of the entire court is required, ~~then~~ the sitting judges of the court ~~will~~ **shall** act in concert. ~~In the event of~~ **If there is a** disagreement, ~~then~~ the decision of the majority of the sitting judges ~~shall control.~~ **controls.**

SECTION 1124. IC 33-5-43-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-27] Sec. 26. The

judge of the circuit court may, with the consent of ~~this~~ **the superior** court, transfer any action, cause, or proceeding filed and docketed in the circuit court to ~~this~~ **the superior** court by transferring all original papers and instruments filed in ~~such~~ **the** action, cause, or proceeding without further transcript ~~thereof~~ to be redocketed and disposed of as if originally filed with ~~this~~ **the superior** court.

SECTION 1125. IC 33-5-43-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-28] Sec. 27. Any judge of ~~this~~ **the superior** court may, with the consent of the judge of the circuit court transfer any action, cause, or proceeding filed and docketed in ~~this~~ **the superior** court to the circuit court by transferring all original papers and instruments filed in ~~such~~ **the** action, cause, or proceeding without further transcript ~~thereof~~ to be redocketed and disposed of as if originally filed with the circuit court.

SECTION 1126. IC 33-5-43-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-29] Sec. 28. The judge of the Vanderburgh circuit court ~~shall be,~~ **may** ~~at his discretion, authorized to~~ sit as a judge of ~~this~~ **the superior** court, with the court's permission, in all matters pending before ~~this~~ **the superior** court, without limitation and without any further order, in the same manner ~~and stead~~ as if ~~he were~~ **the judge were** a judge of ~~this~~ **the superior** court with all the rights and powers as if ~~he were a duly~~ **the judge were an** elected judge of ~~this~~ **the superior** court.

SECTION 1127. IC 33-5-43-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-33] Sec. 29. The **superior** court shall submit its budget estimates annually to the auditor of the county for presentment and approval by the county council, as provided in IC 36-2-5.

SECTION 1128. IC 33-5-43-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43-35] Sec. 30. The Vanderburgh superior court has a standard small claims and misdemeanor division.

SECTION 1129. IC 33-5-43.2-1, AS AMENDED BY P.L.176-1999, SECTION 129, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-43.2-1] Sec. 31. (a) The judge of the Vanderburgh circuit court and each of the seven (7) judges of the Vanderburgh superior court shall be elected in nonpartisan elections every six (6) years.

(b) During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for any one **(1)** of the eight (8) judgeships affected by this chapter shall file with the election division a declaration of candidacy adapted from the form prescribed under IC 3-8-2, signed by the candidate and designating on the declaration which judgeship the

candidate seeks. Any petition without ~~such~~ **the** designation shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2). To be eligible for election, a candidate must be:

(1) domiciled in the county of Vanderburgh;

(2) a citizen of the United States; and

(3) admitted to the practice of law in ~~this state.~~ **Indiana.**

(c) If an individual who files a declaration under subsection (b) ceases to be a candidate after the final date for filing a declaration under subsection (b), the election division may accept the filing of additional declarations of candidacy for that judgeship not later than noon August 1.

(d) All candidates for each respective judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11-2, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(e) IC 3, where not inconsistent with ~~the provisions of~~ this chapter, applies to elections under this chapter.

Chapter 83. Vermillion County

SECTION 1130. IC 33-4-1-83 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-83] Sec. 1. (a) ~~The county of~~ Vermillion ~~shall be and constitute~~ **County constitutes** the forty-seventh judicial circuit. ~~of the State of Indiana.~~

(b) The Vermillion circuit court has a standard small claims and misdemeanor division.

Chapter 84. Vigo County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 1131. IC 33-4-1-84 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-84] Sec. 2. ~~The county of~~ Vigo ~~shall constitute~~ **County constitutes** the forty-third judicial circuit.

SECTION 1132. IC 33-5-44.1-1, AS AMENDED BY P.L.45-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-1] Sec. 3. There is ~~hereby~~ established a ~~superior~~ court ~~in~~ **of record to be known as the** Vigo ~~County, Indiana, which~~ **superior** court. ~~shall consist of~~ **The superior court has** four (4) judges who shall hold their office for six (6) years ~~if they behave well~~ and until their successors have been elected and qualified. ~~In addition to the four (4) judges, the judge of the Vigo circuit court may sit as a judge of said Vigo superior court as provided in this chapter.~~

SECTION 1133. IC 33-5-44.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: ~~Sec. 2. The court shall be named and styled Vigo Superior Court.~~

SECTION 1134. IC 33-5-44.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-3] Sec. 4. The **superior** court shall have a seal consisting of a circular disc containing

the words "Vigo Superior Court of Indiana", and ~~such~~ **a** design as the court may determine, an impression of which shall be spread of record upon the order book of the court.

SECTION 1135. IC 33-5-44.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-4] Sec. 5. The **superior** court has the same jurisdiction as the Vigo circuit court.

SECTION 1136. IC 33-5-44.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-5] Sec. 6. The ~~court shall be a court of record, and its~~ judgments, decrees, orders, and proceedings ~~shall~~ **of the superior court** have the same force and effect and shall be enforced in the same manner as those of the circuit court.

SECTION 1137. IC 33-5-44.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-6] Sec. 7. The judges of the **superior** court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the court ~~not repugnant to the laws of this state and the rules of the supreme court of Indiana~~ and ~~shall~~ have 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. The judges ~~shall have the full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and ~~to~~ give all records and proceedings in the court.

SECTION 1138. IC 33-5-44.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-7] Sec. 8. The judges of the **superior** court ~~shall~~ have the same powers to grant restraining orders, injunctions, to issue writs of habeas corpus, to appoint receivers, ~~master,~~ **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 ~~it now or may hereafter be~~ conferred on circuit courts or the circuit court judges, and to appoint such officers necessary to facilitate the business of the court.

SECTION 1139. IC 33-5-44.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-8] Sec. 9. **(a)** The **superior** court may appoint ~~such number of~~ commissioners, probate commissioners, referees, juvenile referees, bailiffs, court reporters, probation officers, and ~~such~~ other personnel, including ~~but not limited to~~ an administrative officer, as ~~shall in the opinion of~~ the court ~~be~~ **believes are** necessary to facilitate and transact the business of the court. The salaries of the personnel shall be fixed and paid as provided by law. However, if the salaries of any of the personnel are not provided by law, the amount and time of payment of such salaries 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 be entered on record. The officers and persons ~~so~~ appointed shall perform ~~such~~ **the** duties as

are prescribed by the court. Any such commissioners, probate commissioners, referees, juvenile referees, probation officers, and other personnel appointed by the court ~~shall~~ serve at the pleasure of the court.

(b) Any probate commissioner ~~so~~ appointed by the court may be vested by ~~said~~ **the** court with all suitable powers for the handling and management of the probate and guardianship matters of the court, including the fixing of all bonds, the auditing of accounts of estates and guardianships and trusts, acceptance of reports, accounts, and settlements filed in ~~said~~ **the** court, the appointment of personal representatives, guardians, and trustees, the probating of wills, the taking and hearing of evidence on or concerning such matters, or any other probate, guardianship, or trust matters in litigation before ~~such~~ **the** court, the enforcement of court rules and regulations, and making of reports to the court, including the taking and hearing of evidence together with ~~such~~ **the** commissioner's findings and conclusions, ~~regarding the same, all of such matters, nevertheless, to be~~ under the final jurisdiction and decision of the judges of ~~said~~ **the** court.

(c) Any juvenile referee appointed by the court may be vested by ~~said~~ **the** court with all suitable powers for the handling and management of the juvenile matters of the court, including the fixing of bonds, the taking and hearing of evidence on or concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, the making of reports to the court concerning ~~his~~ **the referee's** doings ~~in the above premises, all of such matters, nevertheless, to be~~ under final jurisdiction and decision of the judges of ~~said~~ **the** court.

(d) ~~For any and all the foregoing purposes, any~~ **A** probate commissioner and juvenile referee ~~shall have the power to~~ **may** summon witnesses to testify before the ~~said~~ commissioner and juvenile referee, ~~to~~ administer oaths, and take acknowledgments in connection with and in furtherance of ~~said~~ **their** duties and powers.

SECTION 1140. IC 33-5-44.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-9] Sec. 10. The Vigo superior court shall hold its sessions in the Vigo County courthouse, or its replacement, in ~~the city of~~ Terre Haute. ~~state of Indiana.~~ The board of county commissioners of Vigo County shall provide and maintain in the courthouse suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for the judges, secretaries, and official court reporters, and ~~such~~ other facilities as may be necessary. The board of county commissioners shall also provide all the necessary furniture and equipment for the rooms and offices of the court.

SECTION 1141. IC 33-5-44.1-13 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-13] ~~Sec. 13. The same fees shall be taxed in the superior court as are provided by law to be taxed in the circuit court, and said fees, when collected shall be disbursed in the same manner as like fees are disbursed in the circuit court.~~

SECTION 1142. IC 33-5-44.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-14] Sec. 11. The clerk, under the direction of the **superior** court, shall provide order books, judgment dockets, execution dockets, fee books, and ~~such~~ other books, papers, and records as may be necessary for the court, and all books, papers, and proceedings of the court shall be kept distinct and separate from those of other records.

SECTION 1143. IC 33-5-44.1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-15] Sec. 12. The **superior** court shall maintain ~~such~~ order ~~book, or~~ books as the court may determine necessary for the entire court, which ~~order book or books~~ may be signed on behalf of the court by any of the sitting judges of ~~said~~ **the** court, and ~~such~~ **the** signature ~~shall be due~~ **constitutes** authentication of the actions of each of the judges in the court.

SECTION 1144. IC 33-5-44.1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-16] Sec. 14. Each judge of the **superior** court shall appoint a court reporter, a bailiff, and a secretary for the court whose salary shall be fixed by the court and paid as ~~now~~ provided by law, and who ~~shall~~ serve at the pleasure of the judge making ~~such~~ **the** appointment.

SECTION 1145. IC 33-5-44.1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-17] Sec. 15. The **superior** court ~~shall have the right to~~ **may** appoint ~~such~~ additional officers and personnel as may be necessary for the proper administration of the duties of the court, whose salaries shall be fixed by the court and who ~~shall~~ serve at the pleasure of the court.

SECTION 1146. IC 33-5-44.1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-18] Sec. 16. The **superior** court shall appoint ~~such~~ probation officers as ~~are~~ required who shall perform the same duties and receive the same compensation as is provided by law.

SECTION 1147. IC 33-5-44.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: ~~Sec. 19. All laws of the state of Indiana and all rules duly adopted by the supreme court of Indiana governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court shall be applicable to and govern the court hereby established.~~

SECTION 1148. IC 33-5-44.1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-20] Sec. 17. The clerk of the Vigo circuit court and the jury commissioners appointed by the Vigo circuit court shall serve as jury commissioners for ~~this~~ **the superior** court and shall be governed in all respects as provided for the selection of jurors and the issuing and servicing of process. However, ~~said~~ **the** jurors need not serve in any particular order in which they are drawn by the jury commissioners. In addition, any judge of the **superior** court may order the selection and summoning of other jurors for the court whenever ~~the same may be~~ necessary and ~~they~~ **the jurors** shall serve the entire court and before any judge of the court where their service ~~may be~~ **is** required.

SECTION 1149. IC 33-5-44.1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-22] ~~Sec. 22. Any party may appeal to the supreme court or the court of appeals from any order or judgment of the court in any case where, by existing or future laws of this state, an appeal may be had from a similar order or judgment of the circuit court. The appeal shall be governed by the law and rules governing appeals to the supreme court and the court of appeals.~~

SECTION 1150. IC 33-5-44.1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-23] Sec. 18. The process of the **superior** court ~~shall~~ **must** have the seal affixed and be attested, directed, served, and returned, and be in form as is ~~or may be,~~ provided for process issuing from the circuit court.

SECTION 1151. IC 33-5-44.1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-24] Sec. 19. The **superior** court, by rules ~~duly~~ adopted by the court, may designate one **(1)** of the judges as presiding judge and fix the time ~~he~~ **the presiding** ~~shall preside. and said~~ **judge presides. The presiding** judge ~~shall be~~ **is** responsible for the operation and conduct of the court and to seeing that the court ~~shall~~ **operates** efficiently and judicially. ~~operate.~~

SECTION 1152. IC 33-5-44.1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-25] Sec. 20. The judges of the **superior** court may sit en banc and act in concert, and the judge of the circuit court may also sit en banc with the judges of ~~this~~ **the superior** court. ~~In the event of~~ **If there is a** disagreement while sitting en banc, the decision of the majority of the judges ~~shall control.~~ **controls.** However, in the absence of ~~such~~ **a** majority, the decision of the presiding judge ~~shall control.~~ **controls.**

SECTION 1153. IC 33-5-44.1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-26] Sec. 21. The judge of the Vigo circuit court ~~shall be,~~ **may** ~~at his discretion, authorized to~~ sit as a judge of ~~this~~ **the superior** court, with the court's

permission, in all matters pending before ~~this~~ **the superior** court, without limitation and without any further order, in the same manner ~~and stead~~ as if ~~he were a duly~~ **the judge were an** elected judge of ~~this~~ **the superior** court.

SECTION 1154. IC 33-5-44.1-28, AS ADDED BY P.L.45-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-44.1-28] Sec. 22. Vigo superior court has a standard small claims and misdemeanor division.

Chapter 85. Wabash County

SECTION 1155. IC 33-4-1-85 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-85] Sec. 1. ~~The County of~~ Wabash ~~shall constitute~~ **County constitutes** the twenty-seventh judicial circuit. ~~of Indiana.~~

SECTION 1156. IC 33-5-45.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.1-1] Sec. 2. (a) There is established a court of record to be known as the Wabash superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Wabash Superior Court, Wabash County, Indiana".~~ **The Wabash superior court is a standard superior court as described in IC 33-29-1.**

(c) Wabash County comprises the judicial district of the court.

SECTION 1157. IC 33-5-45.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.1-7] Sec. 3. ~~(a)~~ The **Wabash superior** court **has one (1) judge who** shall hold sessions in:

(1) the Wabash County courthouse in Wabash; ~~Indiana,~~ or

(2) other places in the county that the Wabash County executive provides.

~~(b) The Wabash County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.~~

~~(c) The Wabash County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.~~

SECTION 1158. IC 33-5-45.1-3 IS AMENDED TO READ AS FOLLOWS: [33-5-45.1-3] Sec. 4. The **Wabash superior** court has the same jurisdiction as the Wabash circuit court.

SECTION 1159. IC 33-5-45.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.1-11] Sec. 5. The **Wabash superior** court has a standard small claims and misdemeanor division.

Chapter 86. Warren County

SECTION 1160. IC 33-4-1-86 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-86] Sec. 1. (a) ~~The county of~~ Warren ~~shall constitute~~ **County constitutes** the twenty-first judicial circuit. ~~of the State of Indiana.~~

(b) The Warren circuit court has a standard small claims and

misdemeanor division.

Chapter 87. Warrick County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 1161. IC 33-4-1-87 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-87] Sec. 2. Warrick County ~~shall constitute~~ **constitutes** the second judicial circuit.

SECTION 1162. IC 33-5-45.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-1] Sec. 3. (a) There ~~is~~ **are** established ~~a superior court No. 1 in Warrick County, Indiana. The court shall be named and styled~~ **two (2) courts of record to be known as** "Warrick superior court No. 1"

~~(b) An additional court is established in Warrick County to be known as~~ **and** "Warrick superior court No. 2".

SECTION 1163. IC 33-5-45.5-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-1.5] ~~Sec. 1.5. As used in this chapter, "court" refers to a superior court established under section 1 of this chapter.~~

SECTION 1164. IC 33-5-45.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-2] Sec. 4. Each **superior** court shall have a seal consisting of a circular disk containing the words "Warrick Superior Court No. 1" or "Warrick superior court No. 2" and ~~of~~ a design as each court may determine.

SECTION 1165. IC 33-5-45.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-3] Sec. 5. ~~Each court shall be a court of record.~~ Each **superior** court's judgments, decrees, orders, and proceedings ~~shall~~ have the same force and effect and shall be enforced in the same manner as those of the circuit court.

SECTION 1166. IC 33-5-45.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-4] Sec. 6. Each **superior** court has the same jurisdiction as the Warrick circuit court.

SECTION 1167. IC 33-5-45.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-5] Sec. 7. (a) The judge of the circuit court may, with the consent of a **superior** court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript, to be redocketed and disposed of as if originally filed with the court.

(b) The judge of a **superior** court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in the court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript, to be redocketed and disposed of as if originally filed with the circuit court.

(c) The judge of a **superior** court may, with the consent of the judge of the other **superior** court, transfer any action, cause, or proceeding filed and docketed in the court to the other court to be redocketed and disposed of as if originally filed with the other court.

SECTION 1168. IC 33-5-45.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-6] Sec. 8. (a) The judge of the Warrick circuit court ~~shall be,~~ **may,** ~~at the judge's discretion and~~ with a **superior** court's permission, ~~authorized to~~ sit and ~~to~~ act as a judge of the **superior** court in all matters before the court, without limitation and without any further order in the same manner ~~and stead~~ and with all the rights and powers as if the judge were ~~a duly~~ **an** elected judge of the **superior** court.

(b) The judge of the Warrick superior court No. 1 or Warrick superior court No. 2 ~~shall be,~~ **may,** ~~at the judge's discretion and~~ with the circuit court's permission, ~~authorized to~~ sit and to act as a judge of the circuit court in all matters pending before the circuit court, without limitation and without any further order in the same manner ~~and stead~~ and with all the rights and powers as if the judge were the ~~duly~~ elected judge of the circuit court.

(c) The judge of a **superior** court may, with the consent of the judge of the other **superior** court, sit as a judge of the other court in any manner as if elected as the judge of the other court.

SECTION 1169. IC 33-5-45.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-7] Sec. 9. (a) The Warrick superior court No. 1 or Warrick superior court No. 2 may make rules for conducting the business of the court. ~~not repugnant to the laws of Indiana.~~

(b) The Warrick superior court No. 1 or the Warrick superior court No. 2 may issue warrants and issue and direct all processes ~~which~~ **that** are necessary in exercising the jurisdiction conferred under this chapter. The Warrick superior court No. 1 or Warrick superior court No. 2 may make all proper judgments, sentences, decrees, and orders, issue all process, and do all acts necessary or proper to carry the jurisdiction conferred under this chapter into effect. ~~in conformity with the laws of Indiana.~~

(c) The Warrick superior court No. 1 or the Warrick superior court No. 2 has the same power as the circuit court or a judge of the circuit court in relation to the attendance of witnesses, the punishment of contempts, and the enforcing of a court's orders. The Warrick superior court No. 1 or Warrick superior court No. 2 may administer oaths and give all necessary certificates for the authentication of the records and proceedings of the court.

SECTION 1170. IC 33-5-45.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-8] Sec. 10. There shall be one (1) judge of the Warrick superior court No. 1 and one (1)

judge of the Warrick superior court No. 2 who shall hold office for six (6) years, beginning on the first day of January after a judge's election, and until the judge's successor is elected and qualified.

SECTION 1171. IC 33-5-45.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-5-45.5-10] Sec. 11. The judge of the Warrick superior court No. 1 and the Warrick superior court No. 2 shall be subject to all disciplinary rules promulgated by the ~~Indiana~~ supreme court.

SECTION 1172. IC 33-5-45.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-11] Sec. 11. The voters of Warrick County shall elect every six (6) years a judge for the Warrick superior court No. 1 and a judge for the Warrick superior court No. 2 at the general election.

SECTION 1173. IC 33-5-45.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-12] Sec. 12. ~~Qualifications.~~ To be eligible to hold office as a superior court judge, a person ~~shall.~~ **must:**

~~(a)~~ **(1)** be a resident of ~~the~~ **Warrick** County;

~~(b) not have attained~~ **(2) be less than** seventy (70) years of age at the time of taking office; and

~~(c)~~ **(3)** be admitted to the practice of law in ~~the state of~~ Indiana.

SECTION 1174. IC 33-5-45.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-13] Sec. 13. ~~Vacancy.~~ Any vacancy occurring in the office of the judge of the **superior** court shall be filled by appointment by the governor in the same manner as are vacancies in the office of the judge of the circuit court.

SECTION 1175. IC 33-5-45.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-14] Sec. 14. Warrick superior court No. 1 has a standard small claims and misdemeanor division. Warrick superior court No. 2 has a standard small claims and misdemeanor division.

SECTION 1176. IC 33-5-45.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-16] Sec. 15. ~~Practice and Procedure.~~ **(a)** All laws and rules adopted by the ~~Indiana~~ supreme court ~~now in force or that may hereafter be~~ enacted governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court ~~shall be~~ **are** applicable to and govern the ~~court.~~ **superior courts.**

(b) Notwithstanding subsection (a), in cases on the civil small claims docket, ~~there shall be~~ the following exceptions to the ~~aforesaid~~ laws and rules **described in subsection (a) apply:**

~~(a)~~ **(1) A** defendant ~~shall be deemed~~ **is considered** to have complied with the statute and rule requiring the filing of an answer upon entering ~~his~~ **the defendant's** appearance personally or by attorney. ~~Such~~ **An** appearance ~~shall be deemed~~ **is considered** a general denial and ~~shall preserve~~ **preserves** all defenses and compulsory counterclaims which may then be presented at the trial of the cause.

~~(b)~~ **(2)** If at the trial of the cause the court determines that the complaint is so vague and ambiguous that the defendant was unable to determine the nature of plaintiff's claim or that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant which the plaintiff could not reasonably have anticipated, the court shall grant a continuance.

~~(c)~~ **(3)** The trial ~~shall~~ **must** be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law, and ~~shall~~ **may** not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence except ~~such~~ provisions relating to privileged communications and offers of compromise.

[QUERY: Is this constitutional? Does or can any of this and the following Sections apply any more?]

SECTION 1177. IC 33-5-45.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-17] Sec. 16. When a trial by jury is demanded, a judge of the **superior** court may call a jury from the list provided and used by the circuit court, although the filing of a small claim shall be deemed a waiver of trial by jury by the plaintiff. The defendant may, not later than ten (10) days after being served, make demand for a trial by jury by affidavit stating that there are questions of fact requiring a trial by jury, specifying them, and stating that ~~such~~ **the demand** is intended in good faith. The court shall ~~thereupon~~ **then** cause the claim to be transferred to the regular docket and the defendant shall pay the filing fee charged for filing civil actions in circuit court. Upon transfer ~~such~~ **a** claim ~~shall lose~~ **loses** its status as a small claim and ~~be~~ **is** subject to all ordinary rules and procedure.

SECTION 1178. IC 33-5-45.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-18] Sec. 17. ~~Satisfaction of Judgment.~~ When the judgment or order in the small claims division of the **superior** court is against the defendant, ~~he~~ **the defendant** shall pay the ~~same forthwith~~ **judgment or order immediately** or at any time and upon such terms and conditions as the judge ~~shall prescribe.~~ **prescribes.** If the judge orders that the judgment shall be paid in specified installments, ~~he~~ **the judge** may stay the issuance of execution and other supplementary process during compliance with ~~such~~ **the** order. The stay may be modified or vacated

by the court.

SECTION 1179. IC 33-5-45.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-19] Sec. 18. All judgments rendered in the small claims division of a **superior** court shall be properly recorded in the judgment docket book of the court. The judgments ~~shall be~~ **are** liens on real estate in the same manner as judgments in a court of general jurisdiction become liens on real estate under IC 34-55-9.

SECTION 1180. IC 33-5-45.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-20] Sec. 19. An appeal of a judgment from a standard small claims and misdemeanor division of a **superior** court shall be taken in the same manner and under the same rules and statutes and with the same assessment of costs as cases appealed from the circuit courts. ~~of the state.~~ The appeal in a small claims case must be commenced and perfected within thirty (30) days after the entry of judgment or the right to appeal is waived.

SECTION 1181. IC 33-5-45.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-22] Sec. 20. Each **superior** court shall appoint a bailiff, **a** court reporter, and the additional personnel necessary to carry out the business of the court. The duties, salaries, and terms of the bailiff and recorder shall be regulated in the same manner as provided for the circuit court.

SECTION 1182. IC 33-5-45.5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.5-23] Sec. 21. Warrick superior court No.1 and Warrick superior court No. 2 shall hold sessions in the Warrick County courthouse in ~~the city of~~ Boonville ~~Indiana,~~ or at any other place in ~~the~~ **Warrick** County ~~of Warrick, Indiana,~~ as the board of county commissioners may provide. The board of county commissioners of Warrick County shall provide and maintain a suitable and convenient courtroom for the holding of a **superior** court, together with suitable and convenient jury rooms and offices for the judges and official court reporters and other facilities as may be necessary. The board of county commissioners shall also provide all the necessary furniture and equipment for the rooms and offices of a court, and the county council shall appropriate sufficient funds for the rooms, facilities, furniture, and equipment.

Chapter 88. Washington County

SECTION 1183. IC 33-4-1-88 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-88] Sec. 1. (a) ~~The county of~~ Washington ~~shall be and constitute~~ **County constitutes** the forty-second judicial circuit. ~~of the State of Indiana.~~

(b) The Washington circuit court has a standard small claims and misdemeanor division.

SECTION 1184. IC 33-5-45.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.8-1] Sec. 2. **(a)**

There is established a court of record to be known as the Washington superior court. ~~(referred to as the court in this chapter).~~

(b) ~~The court may have a seal containing the words "Washington Superior Court, Washington County, Indiana".~~ **The Washington superior court is a standard superior court as described in IC 33-29-1.**

(c) Washington County comprises the judicial district of the court.

SECTION 1185. IC 33-5-45.8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.8-7] Sec. 3. The **Washington superior** court **has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the Washington County courthouse in Salem; ~~Indiana,~~ or

(2) ~~in such~~ other places in the county ~~as~~ **that** the Washington County executive may provide. T~~he county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Washington County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 1186. IC 33-5-45.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.8-3] Sec. 4. The **Washington superior** court has the same jurisdiction as the Washington circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 1187. IC 33-5-45.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-45.8-11] Sec. 5. The **Washington superior** court has a standard small claims and misdemeanor division.

Chapter 89. Wayne County

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.** [QUERY: Can the Wayne superior court chapter be combined?]

SECTION 1188. IC 33-4-1-89 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-89] Sec. 2. ~~The county of~~ Wayne ~~shall constitute~~ **County constitutes** the seventeenth circuit.

SECTION 1189. IC 33-5-46-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-46-1] Sec. 3. There ~~hereby~~ is ~~created and~~ established a **court of record to be known as the Wayne** superior court. ~~in and for the county of Wayne, Indiana, which shall consist~~ **The court consists** of one (1) judge, who shall hold ~~his~~ office for six (6) years, beginning on the first day of January after ~~his~~ **the judge's** election, and until ~~his~~ **the judge's** successor ~~shall have~~ **has** been elected and qualified. ~~if he shall so long behave well. Such~~ **The** judge shall be elected every six (6) years at the general election.

SECTION 1190. IC 33-5-46-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-46-2] Sec. 4. ~~Said superior court shall be styled "Wayne Superior Court," and the county of~~ Wayne ~~shall constitute~~ **County constitutes** the judicial district of ~~said~~ **the Wayne superior** court. ~~Said court shall be a court of record and general jurisdiction, and shall have a seal containing the words, "Wayne Superior Court of Wayne County, Indiana."~~

SECTION 1191. IC 33-5-46-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-46-3] Sec. 5. The judge of ~~said~~ **the superior** court shall appoint a bailiff and an official court reporter for ~~said~~ **the** court, to serve ~~as such~~ during the pleasure of the court. The judge shall fix their per diem or salary within the limits and in the manner as ~~many be~~ provided by law concerning bailiffs and official court reporters. The ~~same~~ **bailiff and court reporter** shall be paid monthly out of the treasury of Wayne County in the manner provided by law.

SECTION 1192. IC 33-5-46-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-46-4] Sec. 6. ~~Said~~ **The superior** court shall hold its sessions in the Wayne County courthouse, in ~~the city of~~ Richmond. ~~Indiana. and~~ The board of commissioners of ~~the county of~~ Wayne **County** shall provide and maintain in the courthouse a suitable and convenient courtroom for the holding of ~~said~~ **the** court, together with a suitable and convenient jury room and offices for the presiding judge and the official court reporter, and shall provide all necessary furniture and equipment for ~~said~~ **the** rooms and offices, and all necessary dockets, books, and records for ~~said~~ **the** court.

SECTION 1193. IC 33-5-46-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-46-5] Sec. 7. The **Wayne superior** court has the same jurisdiction as the Wayne Circuit Court.

SECTION 1194. IC 33-5-46-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-46-6] Sec. 8. The judge of the Wayne superior court ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the Wayne superior court ~~not repugnant to the laws of the state of Indiana, or rules of the Supreme Court of the state of Indiana~~ and ~~shall have~~ **has** all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and ~~to enforce~~ **the enforcement of** its orders. The judge of ~~said~~ **the** court ~~shall have full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgment of deeds, ~~and to~~ give all necessary certificates for the authentication of records and proceedings of ~~said~~ **the** court, and ~~to~~ make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries

public.

Chapter 89.2. Wayne Superior Court No. 2

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 1195. IC 33-5-47-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-47-1] Sec. 2. There is ~~hereby~~ created a **court of record to be known as the Wayne** superior court No. 2. ~~in and for the county of Wayne, Indiana, which court shall consist of~~ **The court has** one (1) judge, who shall hold ~~his~~ office for a term of six (6) years, beginning on the first day of January after ~~his~~ **the judge's** election, and until ~~his~~ **the judge's** successor is elected and qualified. The judge of the court shall be elected every six (6) years at the general election.

SECTION 1196. IC 33-5-47-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-47-2] Sec. 3. ~~The court created by the provisions of this chapter shall be known as the "Wayne Superior Court No. 2," and the county of~~ Wayne ~~shall constitute~~ **County constitutes** the judicial district of the **Wayne superior** court **No. 2.** The court ~~shall be a court of record and general jurisdiction, and~~ shall have a seal containing the words "Wayne Superior Court No. 2, of Wayne County, Indiana.".

SECTION 1197. IC 33-5-47-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-47-3] Sec. 4. The judge of the Wayne superior court No. 2 shall appoint a bailiff and an official court reporter for the court, to serve ~~as such during~~ **at** the pleasure of the court. The judge shall fix their compensation within the limits and in the manner as may be provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Wayne County in the manner provided by law.

SECTION 1198. IC 33-5-47-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-47-4] Sec. 5. The terms of the Wayne Superior Court No. 2 shall be held in ~~such~~ **a** judicial district pursuant to IC 33-1-6.

SECTION 1199. IC 33-5-47-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-47-5] Sec. 6. The Wayne superior court No. 2 shall hold its sessions in a place to be determined by the county council of Wayne County. ~~Indiana, and~~ The board of county commissioners of Wayne County shall provide and maintain in the courthouse a suitable and convenient courtroom for the holding of ~~said~~ court, together with a suitable and convenient jury room and offices for the judge and the official court reporter. The board of county commissioners shall provide all necessary furniture and equipment for the rooms and offices of the court, and all necessary dockets, books, and records for the court. The county council shall make the necessary appropriations from the general fund of the county for the purpose of carrying out ~~the provisions of~~ this chapter.

SECTION 1200. IC 33-5-47-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-47-6] Sec. 7. The Wayne superior court No. 2 has the same jurisdiction as the Wayne circuit court.

SECTION 1201. IC 33-5-47-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-47-7] Sec. 8. The judge of the Wayne superior court No. 2 ~~shall have full power and authority to~~ **may** make and adopt rules and regulations for conducting the business of the Wayne superior court No. 2. ~~not repugnant to the laws of the state of Indiana or the rules of the Supreme Court of the state of Indiana.~~ The judge ~~shall have~~ **has** all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce his orders. The judge ~~of said court shall have full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgments of deeds, ~~and to~~ give all necessary certificates for the authentication of records and proceedings of ~~said~~ **the** court, and ~~to~~ make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

SECTION 1202. IC 33-5-47-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-47-8] Sec. 9. Jury commissioners for Wayne superior court No. 2 shall be selected in the same manner, to the same effect, and subject to the same limitations as those selected for the Wayne Superior Court No. 1.

SECTION 1203. IC 33-5-47-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-47-9] Sec. 10. All laws ~~of the state of Indiana now in force or that may hereafter be enacted~~ governing the powers, duties, and procedure of jury commissioners in circuit courts, ~~of the state of Indiana,~~ their failure to act, their contempt of court, a vacancy and the appointment of successor, their qualifications, their selection of petit jurors, their keeping a box of prospective jurors locked, the manner of drawing petit jurors' names, ~~therefrom,~~ the selection of additional jurors, the selection of special venires and laws ~~of the state of Indiana~~ pertaining to special juries, struck jury with or without notice, **and** the duties of the clerk of the court pertaining to selection of juries and other laws pertaining to the drawing and recording of names of prospective petit jurors, ~~shall be applicable to and~~ govern the jury commissioners duly appointed and the selection of petit jurors in the Wayne Superior Court No. 2.

Chapter 89.3. Wayne Superior Court No. 3.

[NEW] **Sec. 1. IC 33-29-1 does not apply to this chapter.**

SECTION 1204. IC 33-5-48-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-1] Sec. 2. There is established a court of record having general jurisdiction to be known as the Wayne superior court No. 3 (referred to as "the court" in this

chapter). The court may have a seal containing the words "Wayne Superior Court No. 3, Wayne County, Indiana". Wayne County comprises the judicial district of the court.

SECTION 1205. IC 33-5-48-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-2] Sec. 3. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Wayne County. ~~His~~ **The judge's** term begins January 1 following ~~his~~ **the judge's** election and ends December 31 following the election of ~~his~~ **the judge's** successor.

(b) To be eligible to hold office as judge of the court, a person must:

(1) be a resident of Wayne County;

(2) be ~~under~~ **less than** seventy (70) years of age at the time ~~he~~ **the person** takes office;

(3) be admitted to the bar of Indiana; and

(4) have practiced law at least five (5) years.

SECTION 1206. IC 33-5-48-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-3] Sec. 4. The court has the same jurisdiction as the Wayne circuit court and Wayne superior courts No. 1 and No. 2.

SECTION 1207. IC 33-5-48-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-4] Sec. 5. The judge of the court has the same powers relating to the conduct of business of the court as the judge of the Wayne circuit court and the judges of Wayne superior courts No. 1 and No. 2. The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt, and the power to enforce ~~his~~ **the judge's** orders. The judge ~~has full authority to~~ **may** administer oaths, solemnize marriages, take and certify acknowledgements of deeds, and give all necessary certificates for the authentication of records and proceedings of ~~his~~ **the judge's** court.

SECTION 1208. IC 33-5-48-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-8] Sec. 6. The judge of the court may appoint a bailiff, official court reporter, referee, commissioner, and any other personnel as ~~he~~ **the judge** considers necessary to facilitate and transact the business of the court. The judge of the court shall fix their compensation within the limits and in the manner as provided by law concerning these officers and employees. These personnel ~~shall~~ serve at the pleasure of the court and ~~be~~ **are** paid monthly in the manner of payment for officers and employees of Wayne circuit court and Wayne superior courts No. 1 and No. 2.

SECTION 1209. IC 33-5-48-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-9] Sec. 7. The clerk, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and

papers of other courts.

SECTION 1210. IC 33-5-48-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-10] Sec. 8. The court shall hold its sessions in a place to be determined and provided by the county council of Wayne County. ~~Indiana.~~ The board of county commissioners of Wayne County shall provide and maintain in the courthouse a suitable and convenient courtroom for holding the court, together with a suitable and convenient jury room and offices for the judge, official court reporter, and staff of the court. The board of county commissioners shall provide all necessary furniture and equipment for the rooms, offices, and employees of the court, and all necessary dockets, books, and records for the court. The county council shall make all necessary appropriations from the general fund of the county for the purpose of carrying out ~~the provisions of~~ this chapter.

SECTION 1211. IC 33-5-48-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-11] Sec. 9. Jury commissioners for the Wayne circuit court shall be jury commissioners for the court.

SECTION 1212. IC 33-5-48-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-13] Sec. 10. The judges of the Wayne circuit court and Wayne superior courts No. 1 and No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter in the small claims and minor offenses division of the court, as if ~~he were~~ **the judge were** an elected judge of the court.

SECTION 1213. IC 33-5-48-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-14] Sec. 11. The judges of the Wayne circuit court and Wayne superior courts No. 1 and No. 2 may, with the consent of the judge of the court, transfer any action, cause, or proceeding filed and docketed in the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, to the court by transferring all original papers and instruments filed in such an action, cause, or proceeding. ~~Such an~~ **The** action, cause, or proceeding shall be treated as if originally filed with the court. The judge of the court may, with the consent of the judge of the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, transfer any action, cause, or proceeding filed and docketed in the court, except a cause properly docketed in the small claims or minor offenses division of the court, to the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, by transferring all original papers and instruments filed in ~~such an~~ **the** action, cause, or proceeding. ~~Such an~~ **The** action, cause, or proceeding shall be treated as if originally filed with the transferee court. However, if any cause, action, or proceeding transferred under this section is later transferred on change of venue to a court of another county, or if any such a cause is appealed to the court of appeals or supreme court of Indiana, then the

party taking the change of venue or appeal may have a transcript made of the proceedings in each court, certified by the clerk of that court. ~~Such a~~ **The** transcript ~~shall have~~ **has** the same force and effect, and ~~shall give~~ **gives** the court to which it is taken on change of venue or appeal the same jurisdiction, as though this transcript had been originally made when the cause was transferred to the transferee court.

SECTION 1214. IC 33-5-48-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48-15] Sec. 12. The Wayne superior court No. 3 has a standard small claims and misdemeanor division.

Chapter 90. Wells County

SECTION 1215. IC 33-4-1-90 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-90] Sec. 1. ~~The county of~~ Wells ~~shall be and constitute~~ **County constitutes** the twenty-eighth judicial circuit. ~~of the State of Indiana.~~

SECTION 1216. IC 33-5-48.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48.5-1] Sec. 2. **(a)** There is established a court of record to be known as the Wells superior court. ~~(referred to in this chapter as the court).~~

(b) ~~The court may have a seal containing the words "Wells Superior Court, Wells County, Indiana".~~ **The Wells superior court is a standard superior court as described in IC 33-29-1.**

(c) Wells County comprises the judicial district of the court.

SECTION 1217. IC 33-5-48.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48.5-7] Sec. 3. The **Wells superior** court **has one judge who** shall hold ~~its~~ sessions in:

(1) the Wells County courthouse in Bluffton; ~~Indiana,~~ or

(2) ~~in such~~ other places in the county ~~as~~ **that** the Wells County executive may provide. ~~The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Wells County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.~~

SECTION 1218. IC 33-5-48.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48.5-3] Sec. 4. The **Wells superior** court has the same jurisdiction as the Wells circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 1219. IC 33-5-48.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-48.5-11] Sec. 5. The **Wells superior** court has a standard small claims and misdemeanor division.

Chapter 91. White County

SECTION 1220. IC 33-4-1-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-91] Sec. 1. ~~The~~

~~county of~~ White ~~shall be and constitute~~ **County constitutes** the thirty-ninth judicial circuit. ~~of the State of Indiana.~~

SECTION 1221. IC 33-5-49-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-49-1] Sec. 2. **(a)** There is established a court of record to be known as the White superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "White Superior Court, White County, Indiana".~~ **The White superior court is a standard superior court as described in IC 33-29-1.**

(c) White County comprises the judicial district of the court.

SECTION 1222. IC 33-5-49-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-49-7] Sec. 3. The **White superior** court **has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the White County courthouse in Monticello; ~~Indiana,~~ or

(2) ~~in such~~ other places in the county ~~as~~ **that** the board of county commissioners of White County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of White County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 1223. IC 33-5-49-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-49-3] Sec. 4. The **White superior** court has the same jurisdiction as the White circuit court.

SECTION 1224. IC 33-5-49-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-49-11] Sec. 5. The **White superior** court has a standard small claims and misdemeanor division.

Chapter 92. Whitley County

SECTION 1225. IC 33-4-1-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-92] Sec. 1. ~~The County of~~ Whitley ~~shall be and constitute~~ **County constitutes** the eighty-second judicial circuit. ~~of the State of Indiana.~~

SECTION 1226. IC 33-5-50-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-50-1] Sec. 2. **(a)** There is established a court of record to be known as the Whitley superior court. ~~(referred to as "the court" in this chapter).~~

(b) ~~The court may have a seal containing the words "Whitley Superior Court, Whitley County, Indiana".~~ **The Whitley superior court is a standard superior court as described in IC 33-29-1.**

(c) Whitley County comprises the judicial district of the court.

SECTION 1227. IC 33-5-50-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-50-7] Sec. 3. The

Whitley superior court **has one (1) judge who** shall hold ~~its~~ sessions in:

(1) the Whitley County courthouse in Columbia City; ~~Indiana,~~ or

(2) ~~in such~~ other places in the county ~~as~~ **that** the board of county commissioners of Whitley County may provide. ~~The board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of Whitley County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.~~

SECTION 1228. IC 33-5-50-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-50-11 part] Sec. 4. (a) ~~The court has a standard small claims and misdemeanor division.~~

~~(b)~~ If the **Whitley** county executive establishes the position of small claims referee to serve the **Whitley superior** court, the judge of the **Whitley superior** court may appoint a part-time small claims referee under IC 33-5-2.5 to assist the court in the exercise of its small claims jurisdiction.

~~(c)~~ **(b)** The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars ($20,000) as recommended by the judge of the **Whitley superior** court to be paid by the county after it is approved by the county fiscal body. The state shall pay fifty percent (50%) of the salary set under this subsection, and the county shall pay the remainder of the salary.

~~(d)~~ **(c)** The **Whitley** county executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including furniture and equipment, as necessary.

~~(e)~~ **(d)** The **Whitley superior** court shall employ administrative staff necessary to support the functions of the small claims referee.

~~(f)~~ **(e)** The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

SECTION 1229. IC 33-5-50-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-50-3] Sec. 5. The **Whitley superior** court has the same jurisdiction as the Whitley circuit court, except that only the circuit court has juvenile jurisdiction.

SECTION 1230. IC 33-5-50-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-5-50-11(a)] Sec. 6. (a) The **Whitley superior** court has a standard small claims and misdemeanor division.

SECTION 1231. IC 33-34 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 34. MARION COUNTY SMALL CLAIMS COURTS

Chapter 1. Establishment and General Provisions

SECTION 1232. IC 33-11.6-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-1-1] ~~Sec. 1. Gender and Number. As used in this article the masculine gender includes the feminine and, where appropriate, the singular number includes the plural and the plural includes the singular.~~

SECTION 1233. IC 33-11.6-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-1-2] Sec. 1. ~~Judge.~~ As used in this article, "judge" means the judge of ~~the~~ **a** small claims court **established under this chapter** unless otherwise indicated.

SECTION 1234. IC 33-11.6-1-3, AS AMENDED BY P.L.95-1999, SECTION 3, IS AMENDED TO READ AS FOLLOW [EFFECTIVE JULY 1, 2004]: [33-11.6-1-3] Sec. 2. **(a)** There are ~~hereby created and~~ established township small claims courts in each county containing a consolidated city of the first class.

(b) The name of each court shall be the "_____ Township of Marion County Small Claims Court" (insert the name of the township in the blank).

SECTION 1235. IC 33-11.6-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-1-4] Sec. 3. ~~Not a Court of Record.~~ The small claims court ~~shall~~ **is** not ~~be~~ a court of record.

SECTION 1236. IC 33-11.6-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-1-6] Sec. 4. ~~Teams of Court.~~ The small claims court shall ~~have no term of court, but shall~~ meet in continuous session.

SECTION 1237. IC 33-11.6-1-7, AS AMENDED BY P.L.95-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-1-7] Sec. 5. The judge of the circuit court shall extend aid and assistance to the judges in the conduct of the township small claims courts.

SECTION 1238. IC 33-11.6-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-2-2] Sec. 6. ~~Each~~ **A** division of the small claims court ~~shall~~ **must** be a full-time division or a part-time division as **determined by** the individual township boards. ~~shall determine following the hearing provided for in section 3 of this chapter.~~ [QUERY: OK to strike last part of this Section and repeal the next three historical Sections?]

SECTION 1239. IC 33-11.6-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-2-3] ~~Sec. 3. In the year 1975, a hearing was conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public on the question of whether a small claims court division should be established in the township, in each township with a population of less than fifteen thousand (15,000) persons, and whether the division should be full-time or part-time, the location of the division courtroom and~~

~~offices, and other relevant matters.~~

SECTION 1240. IC 33-11.6-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-2-4] ~~Sec. 4. Hearings Concerning Small Claims Court. Notice. The township trustee shall give ten (10) days notice of all hearings held pursuant to section 3 of this chapter in one (1) or more newspapers of general circulation in the county.~~

SECTION 1241. IC 33-11.6-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-2-5] ~~Sec. 5. Within two (2) weeks following a hearing held pursuant to section 3 of this chapter the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order as to whether a small claims court division shall be established in the township if such township has a population of less than fifteen thousand (15,000) persons, whether the division, if any, shall function full-time or part-time, the location of the division courtroom and offices pursuant to IC 33-11.6-8-1, and other relevant matters.~~

Chapter 2. Judges

SECTION 11. IC 33-11.6-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-1] Sec. 1. ~~Each~~ **A** judge of the small claims court shall be elected at the general election ~~in 1986 and~~ every four (4) years ~~thereafter~~ by the registered voters residing within the township in which the division of the small claims court is located.

SECTION 1242. IC 33-11.6-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-2] Sec. 2. ~~Each~~ **A** judge of the small claims court must meet the qualifications prescribed by IC 3-8-1-30.

SECTION 1243. IC 33-11.6-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-4] Sec. 4. The term of office of a judge of a small claims court is four (4) years, beginning January 1 after election and continuing until a successor is:

(1) elected; and

(2) qualified.

SECTION 1244. IC 33-11.6-3-5, AS AMENDED BY P.L.95-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-5] Sec. 5. **(a)** The circuit court judge may establish a regular hourly schedule for the performance of duties by full-time or part-time township small claims courts and each small claims court judge shall maintain that schedule.

(b) If the circuit court judge does not establish a regular hourly schedule ~~each~~ **the** small claims court judge shall perform the judge's duties at regular, reasonable hours.

(c) Whether or not a regular hourly schedule has been established ~~by the circuit court judge,~~ **as set forth in subsection (a),** a small claims

court judge shall hold sessions in addition to the judge's regular schedule whenever the business of the judge's court requires. ~~such sessions.~~

SECTION 1245. IC 33-11.6-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-6] Sec. 6. (a) Within each county, the salary of a ~~member~~ **judge** of a small claims court who serves full time ~~shall~~ **must** be in an amount determined by the township board of the township in which the small claims court is located.

(b) The salary of each ~~member~~ **judge** of the small claims court who serves part time ~~shall~~ **must** be in an amount determined by the township board and approved by the county council.

(c) The salary of a ~~member~~ **judge** of the small claims court ~~shall~~ **may** not be reduced during ~~his~~ **the judge's** term of office.

(d) At any other time, salaries of any full-time or part-time ~~member~~ **judge** of a small claims court may be increased or decreased by the township board of the township in which the small claims court is located.

SECTION 1246. IC 33-11.6-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-7] Sec. 7. ~~Salary Payment.~~ **(a)** The annual salary of ~~each~~ **a** judge shall be paid in twelve (12) equal monthly installments by the township trustee.

(b) The judge may **not** receive ~~no~~ remuneration other than a salary set under section [6] of this chapter for the performance of ~~his~~ **the judge's** official duties except payments for performing ~~wedding~~ **marriage** ceremonies.

SECTION 1247. IC 33-11.6-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-8] Sec. 8. ~~Other Employment.~~ (a) A judge serving part-time may participate in other gainful employment ~~so long as such~~ **if the** employment does not:

(1) interfere with the exercise of ~~his~~ **the judge's** judicial office; or

(2) involve any conflict of interest in the ~~carrying out~~ **performance** of ~~his~~ **the judge's** judicial duties.

(b) A judge serving full time who is an attorney may practice the profession of law ~~only insofar as it~~ **if the practice** does not conflict in any way with ~~his~~ **the judge's** official duties and ~~in particular~~ does not:

(1) cause ~~him~~ **the judge** to be unduly absent from ~~his~~ **the** court; or

(2) interfere with the ready and prompt disposal of ~~his~~ **the judge's** judicial duties.[QUERY: Believe "who is an attorney" conflicts with IC 3-8-1-30 which REQUIRES a judge of the small claims court to be an attorney. Would suggest striking that wording.]

SECTION 1248. IC 33-11.6-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-9] Sec. 9. The:

(1) judges of the small claims court; and ~~the~~

(2) employees of the court;

may be eligible to participate in the public employees' retirement fund as provided in IC 5-10.3, but ~~shall~~ **are** not ~~be~~ eligible to participate as a member in the judges' retirement fund under ~~IC 33-13.~~ **[IC ?????33-13-8.]**

SECTION 1249. IC 33-11.6-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-10] Sec. 10. ~~Vacations.~~ **(a)** A vacation of one (1) month per year shall be provided for ~~each~~ **a** judge who serves in a full-time capacity.

(b) The circuit court judge may authorize the appointment of a judge pro ~~tem~~ **tempore** to handle the current judicial business of the vacationing judge, if ~~he~~ **the circuit court judge** ~~deems~~ **considers** it necessary.

SECTION 1250. IC 33-11.6-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-11] Sec. 11. **(a)** ~~All judges shall be~~ **A judge is** subject to disciplinary action for the grounds and in the manner set forth in ~~IC 33-2.1-6.~~ **????.**

(b) The commission on judicial qualifications for judges of the superior and probate courts is the commission on judicial qualifications for the judges of the small claims courts.[QUERY: Suggest a revision to IC 33-2.1-6-2 as there is no mention in that section that IC 33-2.1-6 applies to judges of these small claims courts.]

SECTION 1251. IC 33-11.6-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-12] Sec. 12. ~~Oath.~~ Before assuming ~~his~~ **the** duties **of a judge,** ~~each~~ **a** judge ~~shall~~ **must** take an oath ~~that he will~~ **to:**

(1) faithfully perform the duties of ~~his~~ **the judge's** office; and

(2) support and defend to the best of ~~his~~ **the judge's** ability the constitution and laws of the state and ~~of~~ the United States of America.

SECTION 1252. IC 33-11.6-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-13] Sec. 13. ~~Bond.~~ **(a)** ~~Each~~ **A** judge shall:

(1) furnish a bond in ~~such~~ **a** sum ~~as may be~~ required by the circuit court judge ~~and it shall be conditioned~~ **to provide** for the:

(A) faithful discharge of the duties of the office; and ~~for the~~

(B) payment or delivery to the proper persons of whatever money or other property may come into ~~his~~ **the judge's** hands ~~as~~ **when acting as** judge; **and** ~~The bond shall then be filed~~

(2) file the bond with the county recorder.

~~Said~~ **The** bond ~~shall~~ **must** also extend to cover ~~any~~ **a** person that is ~~duly~~ appointed to act as judge ~~pursuant to~~ **under** ~~IC 33-11.6-7-4.~~ **????.**

SECTION 1253. IC 33-11.6-3-14, AS AMENDED BY P.L.95-1999,

SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-14] Sec. 14. **(a)** ~~Each~~ **A** judge shall procure a seal that will stamp upon paper a distinct impression of words and letters. The seal ~~shall~~ **must** contain the words "_____ Township of Marion County Small Claims Court" (insert the name of the township in the blank).

(b) Deeds, mortgages, powers of attorney, state warrants, and all other instruments of writing pertaining to ~~his~~ **the judge's** official duty, ~~duly~~ attested by the seal and signature of the judge, ~~shall be~~ **are** presumptive evidence of the official character of ~~said~~ **the** court or judge in all courts in ~~the state~~ **Indiana** without further authentication.

SECTION 1254. IC 33-11.6-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-3-15] Sec. 15. (a) The resignation of ~~any~~ **a** judge shall be delivered to the clerk of the circuit court. ~~who~~ **The clerk** shall advise the circuit court and appropriate township board.

(b) A vacancy occurring in a judgeship ~~shall~~ **must** be filled under IC 3-13-10.

Chapter 3. Jurisdiction, Rules, and Procedure

SECTION 1255. IC 33-11.6-4-1, AS AMENDED BY P.L.95-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-1] Sec. 1. (a) Except for a claim between landlord and tenant, ~~any~~ **a** case within the jurisdiction of ~~any~~ **a** small claims court may be:

(1) venued;

(2) commenced; and

(3) decided;

in any township small claims court within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims court shall determine in accordance with subsection (b) whether required venue lies with the court or with another small claims court in the county in which the small claims court in which the action was filed sits.

(b) The venue determination to be made under subsection (a) must be made in the following order:

(1) In an action upon a debt or account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.

(2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.

(3) Venue is in the township (in a county of the small claims court) where the greater percentage of individual defendants included in the complaint resides, or, if there is ~~no such~~ **not a** greater percentage, the place where any individual **named as a**

defendant: ~~so named~~

(A) resides;

(B) owns real estate; or

(C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.

(4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies.

(c) Venue of any claim between landlord and tenant ~~shall~~ **must** be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the township small claims court, the court shall rule whether required venue lies in the township of filing.

SECTION 1256. IC 33-11.6-4-2, AS AMENDED BY P.L.167-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-2] Sec. 2. The court ~~shall have~~ **has** original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars ($6,000), not including interest or attorney's fees.

SECTION 1257. IC 33-11.6-4-3, AS AMENDED BY P.L.167-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-3] Sec. 3. The court ~~shall have~~ **has** original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars ($6,000). The court ~~shall~~ also ~~have~~ **has** original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property sought to be recovered does not exceed six thousand dollars ($6,000). These jurisdictional limitations ~~shall~~ **are** not ~~be~~ affected by interest and attorney's fees.

SECTION 1258. IC 33-11.6-4-3.5, AS AMENDED BY P.L.2-2002, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-3.5] Sec. 4. The court has original and concurrent jurisdiction with the circuit and superior court in emergency possessory actions between a landlord and tenant under IC 32-31-6.

SECTION 1259. IC 33-11.6-4-4, AS AMENDED BY P.L.280-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-4] Sec. 5. The small claims court ~~shall have~~ **has** no jurisdiction:

(1) in actions seeking injunctive relief or involving partition of real estate; ~~or~~

(2) in actions to declare or enforce any lien ~~thereon~~ except as provided in section ~~[13]~~ of this chapter; ~~and shall have no jurisdiction in cases~~

(3) in actions in which the appointment of a receiver is asked; or

(4) in suits for dissolution or annulment of marriage.

SECTION 1260. IC 33-11.6-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-5] Sec. 6. The judge of the circuit court, assisted by the judges of the small claims court, shall make and adopt uniform rules for conducting the business of the small claims court:

(1) according to a simplified procedure; and

(2) in the spirit of sections [~~6~~ and ~~8~~] of this chapter.

SECTION 1261. IC 33-11.6-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-6] Sec. 7. A simplified procedure shall be established by rule to enable any person, including the state, ~~of Indiana,~~ to:

(1) file the necessary papers; and

(2) present the person's case in court;

either to seek or to defend against a small claim without consulting or being represented by an attorney.

SECTION 1262. IC 33-11.6-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-7] Sec. 8. ~~Service of Process.~~ **(a)** Upon the filing of a complaint, service of original process shall ~~first~~ be ~~made~~ **attempted** by personal service of the summons and complaint on the defendant, **which may include leaving a copy of the service at the last known place of residence of the party if the process server properly describes on the return the residence, noting any of its unique features, and mailing by first class a copy of the service without charge to the party at the same last known place of residence.**

(b) If ~~such~~ service ~~shall prove unsatisfactory,~~ **cannot be made in this manner,** ~~then~~ service of process shall be made in an alternate manner as provided by the Indiana rules of civil procedure.

(c) Subsequent service of process, other than that originally served upon filing of the complaint, may be made by registered or certified mail or ~~such other~~ **another** manner ~~as may be~~ authorized by the Indiana rules of civil procedure. ~~Personal service may include leaving a copy of the service at the last known place of residence of the party so long as the process-server properly describes on the return the residence, noting any of its unique features. In addition, the process-server shall mail (first class) a copy of the service without charge to the party at the same last known place of residence.~~

SECTION 1263. IC 33-11.6-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-8] Sec. 9. ~~Trial. The~~ **A** trial: ~~shall~~

(1) must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive

law; and ~~shall~~

(2) may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence, except ~~such~~ **the** provisions relating to privileged communications and offers of compromise.

SECTION 1264. IC 33-11.6-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-9] Sec. 10. ~~Trial by Jury.~~ There shall be no trial by jury in the small claims court.

SECTION 1265. IC 33-11.6-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-10] Sec. 11. (a) ~~The~~ **A** filing of a civil claim in the small claims court constitutes a waiver of trial by jury by the plaintiff.

(b) The defendant in ~~such~~ a **small claims** case waives the right to trial by jury unless the defendant requests a jury trial at least three (3) calendar days before the trial date ~~appearing~~ **that appears** on the ~~notice of claim filed in the small claims court.~~ **complaint.** Upon the filing of a jury trial request, the small claims court shall transfer the claim to the superior court of the county. ~~in which the small claims court is located.~~ The defendant shall pay all costs necessary for filing the claim in the superior court as if the cause had ~~initially~~ been filed **initially** in that court.

(c) ~~After January 1, 1987,~~ A notice of claim filed in the small claims court must include a statement that reflects the provisions of subsection (b).

SECTION 1266. IC 33-11.6-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-11] Sec. 12. ~~Judicial Notice.~~ The small claims court shall take judicial notice of municipal, city, and town ordinances.

SECTION 1267. IC 33-11.6-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-12] Sec. 13. ~~Satisfaction of Judgment.~~ **(a)** If the judgment or order is against the defendant, ~~he~~ **the defendant** shall pay the ~~same forthwith or~~ **judgment** at any time and upon ~~such~~ terms and conditions as the judge ~~shall prescribe.~~ **orders.**

(b) If the judge orders that the judgment be paid in specified installments, ~~he~~ **the judge** may stay the issuance of execution and other supplementary process during **the period of** compliance with ~~such~~ **the** order.

(c) ~~The~~ **A** stay **ordered under subsection (b)** may be modified or vacated by the court.

SECTION 1268. IC 33-11.6-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-13] Sec. 14. **(a)** All judgments rendered in civil actions may be recorded in the judgment docket book of the proper division of the small claims court.

(b) ~~Such~~ A judgment ~~shall be~~ **entered by a small claims court is** a lien on real estate when entered in the circuit court judgment docket in the same manner as a judgment in a court of general jurisdiction becomes a lien on real estate under IC 34-55-9.

(c) The clerk of the small claims court shall keep a docket in which judgments shall be entered and properly indexed in the name of the judgment defendant as judgments of circuit courts are entered and indexed. [QUERY: I think there is a contradiction between the first and third sentence when it says the judgment "may" be entered vs., the third where there is a duty to record.]

SECTION 1269. IC 33-11.6-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-4-14] Sec. 15. **(a)** All appeals from judgments of the small claims court shall be taken to the superior court of the county and tried de novo.

(b) The rules of procedure for appeals ~~shall~~ **must** be in accordance with the rules established by the superior court.

(c) The appellant shall pay all costs necessary for the filing of the case in the superior court, as if the appeal were a case that had been filed initially in that court.

Chapter 4. Powers

SECTION 1270. IC 33-11.6-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-5-1] Sec. 1. ~~Administer Oaths. Each~~ **A** judge ~~shall have full authority to~~ **may:**

(1) administer oaths;

(2) take and certify acknowledgements of deeds; and

(3) ~~to~~ give all necessary certificates for the authentication of the records and proceedings of the small claims court.

SECTION 1271. IC 33-11.6-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-5-2] Sec. 2. ~~Witnesses, Contempt and Enforcement of Orders.~~ The **small claims** court ~~shall have~~ **has** the same power as the circuit court in relation to the:

(1) attendance of witnesses;

(2) ~~the~~ punishment of contempts; and

(3) ~~the enforcing~~ **enforcement** of its orders.

SECTION 1272. IC 33-11.6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-5-3] Sec. 3. ~~Process, Judgments.~~ A judge ~~of the small claims court assisted as necessary by the clerk of the circuit court, shall have the power to.~~ **may:**

(1) issue and direct all process to individuals and corporations ~~which shall be~~ necessary ~~in exercising~~ **to exercise** the jurisdiction ~~hereby conferred, and to~~ **of the court;**

(2) make all proper judgment, sentences, decrees, and orders; and ~~to issue all process; and~~

(3) do all ~~such~~ acts ~~as may be~~ necessary or proper ~~to carry the same into effect~~ in conformity with ~~the~~ **state** laws; ~~of this state~~ **assisted as necessary by the clerk of the circuit court.**

SECTION 1273. IC 33-11.6-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-5-4] Sec. 4. ~~Marriages.~~ Each judge ~~shall have the power to~~ **may** solemnize marriages.

Chapter 5. Transfer of Cases, Absent Judge, and Special Judge

SECTION 1274. IC 33-11.6-7-1, AS AMENDED BY P.L.95-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-7-1] Sec. 1. The circuit court judge may transfer cases from one (1) township small claims court to another as ~~the needs of the small claims court may require.~~ **necessary.**

SECTION 1275. IC 33-11.6-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-7-2] Sec. 2. A judge of the circuit or superior court may order a cause filed in the judge's court to be transferred to the small claims court if the:

(1) small claims court has jurisdiction of the cause concurrent with the circuit or superior court; and ~~the~~

(2) judge consents to the transfer.

SECTION 1276. IC 33-11.6-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-7-3] Sec. 3. ~~Interchange of Judges.~~ The judges of the small claims court may ~~interchange and hold court for~~ **sit in place of** each other and perform each other's duties:

(1) at the direction of or with the approval of the circuit court judge; and

(2) with the consent of the respective judges.

SECTION 1277. IC 33-11.6-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-7-4] Sec. 4. **(a)** If ~~any~~ **a** judge ~~shall be~~ **is** unable to ~~attend and~~ preside over ~~his~~ **the judge's** division of the small claims court during any ~~day or~~ number of days, the judge may appoint in writing ~~any~~ **a** person qualified to be a small claims judge ~~pursuant to~~ **under** [IC 33-11.6-3-2] to preside ~~during~~ **in place of** the ~~time such~~ judge. ~~is unable to attend and preside. Such~~

(b) The written appointment shall be entered on the order book or record of the circuit court. ~~and such~~ **The** appointee shall, after taking the oath prescribed for the judges, conduct the business of ~~such~~ **the** division, subject to the same rules and regulations as judges and ~~shall have~~ **has** the same authority during the continuance of ~~his~~ **the appointee's** appointment. ~~Such~~

(c) The appointee ~~shall receive~~ **is entitled to** the same

compensation from the township trustee as accruable to the small claims judge in whose place ~~he~~ **the appointee** is serving.

SECTION 1278. IC 33-11.6-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-7-5] Sec. 5. ~~Judge's Absence. Any~~ **(a) A** judge ~~absenting himself from his office for a longer period than~~ **absent from the bench for more than** thirty (30) days shall deposit the dockets, books, and papers ~~which came to his hands by virtue~~ of ~~his~~ **the** office ~~as directed by the circuit court judge~~ with the:

(1) small claims judge of another division; or ~~with the~~

(2) circuit court;

as directed by the circuit court judge.

(b) A:

(1) judge with whom the docket of another ~~may be~~ **judge is** deposited during **a** vacancy or **an** absence; and ~~the~~

(2) successor of any judge ~~having~~ **who has** the dockets of ~~his~~ **successor's** predecessor in ~~his~~ **successor's** possession;

may ~~issue process thereon, give transcripts thereof, and do all other acts in relation thereto, which he~~ **perform all duties that the judge** might ~~legally~~ do **legally** in relation to ~~his~~ **the judge's** own dockets.

(c) Process ~~so issued~~ shall be returned to the judge who ~~may have~~ **has** the legal custody of ~~such~~ **the** docket at the ~~return~~ day ~~thereof.~~ **of return.**

SECTION 1279. IC 33-11.6-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-7-6] Sec. 6. ~~Special Judge.~~ **(a)** ~~No person other than a~~ **Only another** small claims court judge may serve as a special judge in the small claims court.

(b) Except for mileage and travel expense, a small claims court judge serving as a special judge ~~pursuant to~~ **under** this section ~~shall~~ **may not** receive ~~except for mileage and traveling expenses, no~~ compensation in addition to the salary provided in this article

Chapter 6. Facilities and Personnel

SECTION 53. IC 33-11.6-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-8-1] Sec. 1. ~~Courtroom and Office. The courtroom of each division and the office of each judge shall be furnished by~~ The township trustee **shall provide a courtroom for each division and an office for each judge** in a convenient location within the township ~~which~~ **that** has:

(1) adequate access;

(2) sufficient parking facilities;

(3) a separate and appropriate courtroom;

(4) proper space and facilities for the bailiff, clerks, and other employees; and

(5) enough room for files and supplies.

SECTION 1280. IC 33-11.6-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-8-2] Sec. 2. ~~Maintenance, Supplies. Each~~ **A** township shall:

(1) furnish all:

(A) supplies, including all blanks, forms, stationery and papers of every kind, required for use in all cases in the township division of the small claims court; and ~~all~~

(B) furniture, books, and other necessary equipment and supplies; ~~The township shall~~ **and**

(2) provide for all necessary maintenance and upkeep of the facilities where court is held.

SECTION 1281. IC 33-11.6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-8-3] Sec. 3. ~~Clerks.~~ Each township shall provide at an appropriate and competitive salary of not less than five thousand six hundred dollars ($5,600) for ~~each of one (1) or more~~ **the number of** clerks for the township division of the small claims court ~~which number shall be~~ sufficient to: ~~enable the township division of the court to~~

(1) operate efficiently; and

(2) adequately serve the citizens ~~who have or wish to have~~ **doing** business with the township division of the court.

SECTION 1282. IC 33-11.6-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-8-4] Sec. 4. (a) ~~Each division of the small claims court shall have a constable who shall act as the bailiff of the court and who shall serve the court's personal service of process, and have police powers to make arrests, keep the peace, and carry out the orders of the court. The elected constable may appoint full and part-time deputies to assist him in the performance of his official duties. The deputies may perform all the official duties required to be performed by the constable and they possess the same statutory and common law powers and authority as the constable. The deputies appointed by the constable shall take the same oath that is required of the constable.~~

~~(b) Deputies appointed by the constable serve at his pleasure and may be dismissed at any time and without assigning any cause. The constable is responsible for all of the official acts of his deputies. The constable may require a deputy to give a bond, in an amount to be fixed by the constable, for the proper discharge of his duties.~~

~~(c)~~ The voters of each township having a small claims court shall elect a constable for the township division of the small claims court at the general election ~~in 1986 and~~ every four (4) years ~~thereafter. The~~ **for a** term of office of ~~a constable is~~ four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. The ballot ~~shall~~ **must** state the:

(1) name of the candidate; and ~~the~~

(2) court division for which the candidate is to serve.

(b) Each division of the small claims court shall have a constable who:

(1) acts as the bailiff of the court;

(2) serves the court's personal service of process;

(3) has police powers to:

(A) make arrests;

(B) keep the peace; and

(C) carry out the orders of the court;

(4) must meet the qualifications prescribed by IC 3-8-1-31;

(5) is compensated for each process that is delivered to effect personal service when serving as the bailiff for the court;

(6) is responsible for:

(A) the preparation and mailing of all registered or certified service and is compensated for each process served by mail; and

(B) all the official acts of the deputies;

(7) is compensated solely from the service of process fees collected under IC 33-11.6-4-15 ????; and

(8) may require a deputy to give a bond for the proper discharge of the deputy's duties, for an amount fixed by the constable.

(c) The elected constable may appoint full and part-time deputies for assistance in the performance of official duties, who:

(1) perform all the official duties required to be performed by the constable; (2) possess the same statutory and common law powers and authority as the constable;

(3) must take the same oath required of the constable;

(4) are compensated solely from the service of process fees collected under IC 33-11.6-4-15 ????; and

(5) serve at the pleasure of the constable and may be dismissed at any time with or without cause.

(d) ~~Each constable must meet the qualifications prescribed by IC 3-8-1-31. The constable acting as the bailiff for the court shall be compensated for each process which he delivers to effect personal service. In addition, the constable shall be responsible for the preparation and mailing of all registered or certified service and shall be compensated for each process so mailed. The compensation of the constable and deputy constables shall be paid solely from the service of process fees collected under IC 33-11.6-4-15.~~

~~(c) In the event of~~ **If there is** an:

(1) emergency; or

(2) inability of a constable to carry out ~~his~~ **the constable's** duties;

the judge may appoint a special constable to carry out the duties of the

constable during the emergency or inability.

Chapter 8. Records; Reports; Accounting

SECTION 1283. IC 33-11.6-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-9-3] Sec.1. ~~Accounting Rules and Forms.~~ The state board of accounts shall provide rules, in cooperation with the appropriate county officers, to specify the:

(1) forms; and

(2) records;

for the handling **and reporting** of money and other property by or in connection with the small claims court. ~~and reporting thereon.~~

SECTION 1284. IC 33-11.6-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-9-4] Sec. 2. ~~Caseload Reports.~~ Each judge shall prepare, certify, and file quarterly reports on March 31, June 30, September 30, and December 31 of each ~~calendar~~ year with the circuit court judge, which ~~shall~~ **must** include the:

(1) total case filings;

(2) terminations; and

(3) cases remaining open;

broken down by the type of case, ~~The reports shall be~~ in a form approved by and distributed under the direction of the circuit court judge.

SECTION 1285. IC 33-11.6-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-9-5] Sec. 3. ~~Records.~~ The judge of the circuit court of the county, with the assistance of the clerk of the circuit court, ~~of~~ the judges, and ~~of~~ the state board of accounts, shall: ~~at the expense of the townships,~~

(1) provide the forms, blanks, court calendar books, judgment dockets, and fee books, **at the expense of the townships;** and ~~shall~~

(2) make rules and instructions to direct the judges **of the small claims courts** in keeping records and in making reports.

The clerk of the circuit court shall keep full and permanent records and reports of each judge **of the small claims court's** past and current proceedings, indexed and available for reference as a public record. [QUERY- I THINK THAT THE FIRST SENTENCE CONFLICTS WITH IC 33-11.6-8-2, ..FURTHER, IT IS AMBIGUOUS WHO "THE JUDGES" IN THE SECOND LINE OF THIS SECTION ARE...ARE THEY <u>OTHER</u> JUDGES OF THE OTHER TOWNSHIPS OR WHAT?]

Chapter 9. Fees and Costs

SECTION 1286. IC 33-11.6-4-15, AS AMENDED BY P.L.141-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]:[33-11.6-4-15] Sec. 1. (a) The **following fees and** costs ~~consist of~~ **apply to cases in the small claims court:**

(1) A township docket fee ~~equal to~~ **of** five dollars ($5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-19-5-2.

(2) Bailiff's service of process by registered or certified mail fee of thirteen dollars ($13) for each service.

(3) The cost for the personal service of process by the bailiff or other process server in the amount of thirteen dollars ($13) for each service.

(4)Witness fees, if any, in the amount provided by [IC 33-19-1-6] to be taxed and charged in the circuit court of the county.

(5) A redocketing fee, if any, of five dollars ($5).

(6) A document storage fee under [IC 33-19-6-18.1.]

(7) An automated record keeping fee under [IC 33-19-6-19.] ~~and~~

(8) Aa late fee, if any, under [IC 33-19-6-20.]

The docket fee and the cost for the initial service of process shall be paid ~~upon~~ **at** the institution of ~~each~~ **a** case. The cost of service ~~rendered subsequent to~~ **after** the initial service shall be assessed and paid after ~~such~~ service has been made. ~~and~~ The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 1287. IC 33-15-25-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-25-2] Sec. 2. ~~(a) This section applies to the small claims court established under IC 33-11.6. (b)~~ The person who is designated by a judge of the **small claims** court to prepare transcripts may collect a fee of ~~no~~ **not** more than five dollars ($5) for each transcript from a person who requests the preparation of a transcript.

SECTION 1288. IC 33-11.6-9-1, AS AMENDED BY P.L.141-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-9-1] Sec. 3. (a) Payment for all costs ~~and other purposes~~ made as a result of proceedings in a division of the small claims court shall be to the _____ County Small Claims Court _____ Division (with the name of the county and township inserted). The court shall issue a receipt for all ~~monies~~ **money** received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township ~~trustees~~ **trustee** at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of the state all automated record keeping fees received by the court for deposit in the state user fee fund established under ~~IC 33-19-9~~;

IC 33-19-9-2 ????; and

(2) monthly distribute to the county auditor all document storage fees received by the court. The county auditor shall deposit fees distributed under this subdivision into the clerk's record perpetuation fund under ~~IC 33-19-6-1.5.~~ **????.**

SECTION 1289. IC 33-11.6-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-11.6-9-2] Sec. 3. ~~Accounting Reports.~~ Fees, costs, and any other amounts collected by the courts shall be accounted for quarterly to the clerk of the circuit court on:

(1) March 31;

(2) June 30;

(3) September 30; and

(4) December 31;

of each year.

SECTION 1290. IC 33-35 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 35. CITY AND TOWN COURTS

Chapter 1. Establishment; Election of Judges

SECTION 1291. IC 33-10.1-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-1-3] Sec. 1. (a) During ~~1986, and during~~ every fourth year after 1986, a second or third class city or a town may by ordinance establish or abolish a city or town court. An ordinance to establish a city or town court must be adopted not less than one (1) year before the judge's term would begin under [IC 33-10.1-3-1.1.]

(b) The judge for a court established under subsection (a) shall be elected under IC 3-10-6 or IC 3-10-7 at the municipal election in November 1987 and every four (4) years thereafter.

(c) A court established under subsection (a) ~~shall come~~ **comes** into existence on January 1 of the year following the year in which a judge is elected to serve in that court.

(d) A city or town court in existence on January 1, 1986, may continue in operation until it is abolished by ordinance.

(e) A city or town that establishes or abolishes a court under this section shall give notice of its action to the division of state court administration of the office of judicial administration under ~~IC 33-2.1-7.~~ **????.**

SECTION 1292. IC 33-10.1-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-1-4] Sec. 2. (a) This section applies to a town that:

(1) adopts an ordinance under IC 3-10-6-2.6; and

(2) subsequently adopts an ordinance to establish a town court under section ~~3~~ **1** of this chapter.

(b) Notwithstanding section ~~3~~ **1** of this chapter, the judge of the town court shall be elected at the next municipal election not conducted in a general election year. The successors of the judge shall be elected at the first general election following the municipal election and every four (4) years thereafter.

SECTION 1293. IC 33-10.1-3-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-3-1.1] Sec. 3. (a) The judge of a city or town court shall be elected under IC 3-10-6 or IC 3-10-7 by the voters of the city or town.

(b) Except as provided in subsections (c) and (d), the term of office of a judge elected under this section is four (4) years, beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(c) This subsection applies to a town that adopts an ordinance under IC 3-10-6-2.6. The term of office of:

(1) a judge elected at the next municipal election not conducted in a general election year is one (1) year; and

(2) the successors to the judge described in subdivision (1) is four (4) years;

beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(d) This subsection applies to a town that adopts an ordinance under IC 3-10-7-2.7. The term of office of:

(1) a judge elected at the next municipal election not conducted in a general election year is three (3) years; and

(2) the successors to the judge described in subdivision (1) is four (4) years;

beginning noon January 1 after election and continuing until a successor is elected and qualified.

(e) Before beginning the duties of office, the judge shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the duties of office.

SECTION 1294. IC 33-10.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-3-2] Sec. 4. To be eligible to hold the office of city court judge, as provided by Article 6, Section 6, of the Constitution of the State of Indiana, the judge must be a resident of the city during the term of office or the office becomes vacant.

SECTION 1295. IC 33-10.1-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-3-3] Sec.5. Before beginning the duties of office, the judge of a town court ~~shall~~ **must:**

(1) take and subscribe to the same oath of office as judges of circuit courts; ~~The judge shall also~~ **and**

(2) execute a bond payable to the town in the penal sum of five

thousand dollars ($5,000), conditioned upon the faithful performance of the duties of the judge's office with good and sufficient surety.

The bond must be approved by the legislative body of the town and filed in the office of the town clerk-treasurer.

Chapter 2. Judge's Powers and Jurisdiction

SECTION 1296. IC 33-10.1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-2-1] Sec. 1. (a) A judge of a city or town court:

(1) may adopt rules for conducting the business of the court; ~~and~~

(2) has all powers incident to a court of record in relation to:

(A) the attendance of witnesses;

(B) the punishment of contempts;

(C) the enforcement of its orders; and

(D) the ~~issuing~~ **issuance** of commissions for taking depositions in cases pending in the court.

(3) ~~The judge~~ may administer oaths; and

(4) may give all necessary certificates for the authentication of the records and proceedings of the court.

(b) If the judge is temporarily absent or unable to act, ~~he~~ **the judge** shall appoint a reputable practicing attorney to preside in ~~his~~ **the judge's** absence **as special judge.** The special judge:

(1) has all the powers and rights; and

(2) shall perform all the duties;

of the judge of the court as fully as the regular judge appointing ~~him~~ **the special judge**.

SECTION 1297. IC 33-10.1-2-8.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-2-8.1] Sec. 2. The town court judge or city court judge shall provide, at the expense of the town or city, a seal for the court that must contain on the face the words: "(Town or City) Court of _____, Indiana." A description of the seal, together with an impress of it, shall be put on the records of the court.

SECTION 1298. IC 33-10.1-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-2-2] Sec. 3. A city court has the following jurisdiction over crimes, infractions, and ordinance violations:

(1) Jurisdiction of all violations of the ordinances of the city.

(2) Jurisdiction of all misdemeanors and all infractions.

SECTION 1299. IC 33-10.1-2-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-2-3.1] Sec. 4. A city court has concurrent jurisdiction with the circuit court in civil cases where the amount in controversy does not exceed five hundred dollars ($500). However, the city court does not have jurisdiction in

actions for:

(1) slander;

(2) libel;

(3) foreclosure of mortgage on real estate, where the title to real estate is in issue;

(4) matters relating to a decedent's estate, appointment of guardians and all related matters; and

(5) actions in equity.

SECTION 1300. IC 33-10.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-2-4] Sec. 5. The city court of each of the four (4) cities having the largest populations and the town court of the town having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) have concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed three thousand dollars ($3,000). The 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. However, the 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 1301. IC 33-10.1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-2-5] Sec. 6. A city court in a third class city that is not a county seat and to which section [4] of this chapter does not apply has concurrent jurisdiction with the circuit court in civil cases where the amount in controversy does not exceed three thousand dollars ($3,000). However, the city court does not have:

(1) jurisdiction in actions for**:**

(A) slander;

(B) libel;

(C) foreclosure of mortgages on real estate, where the title to real estate is in issue;

(D) all matters relating to a decedent's estate, appointment of guardians and all related matters; and

(E) actions in equity; ~~nor does the court have~~ **and**

(2) original jurisdiction where the principal defendant resides within another city having a city court with a civil jurisdiction.

Judgments rendered in the city court, when a certified transcript is filed with the clerk of the circuit court, have the same force as judgments rendered in the circuit court.

SECTION 1302. IC 33-10.1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-2-6] Sec. 7. If in a proceeding in a city court the title to land is put in issue by plea supported by affidavit, or manifestly appears from the proof on trial to be in issue, the court shall, without further proceeding, certify the cause and papers to the circuit or other court having jurisdiction in the county where the cause is being tried. However, if the title to land is put in issue by affidavit or verified pleading, the court shall at once hear and determine whether title is in issue, and, if the proof supports the issue, then the cause shall be certified for final determination, including the issue of title.

SECTION 1303. IC 33-10.1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-2-7] Sec. 8. (a) A town court has exclusive jurisdiction of all violations of the ordinances of the town.

(b) A town court also has jurisdiction of all misdemeanors and all infractions.

Chapter 3. Personnel; Expenses; Costs

SECTION 1304. IC 33-10.1-6-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.1-6-1.1] Sec. 1. (a) The officers of a city court are:

(1) a judge;

(2) a clerk; and

(3) a bailiff.

However, in third class cities, the judge may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as clerk of the court or appoint a clerk of the court, the city clerk elected under IC 36-4-10 shall perform the duties of the clerk of the city court.

(b) The clerk is an officer of a town court. The judge of a town court may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as a clerk of the court or appoint a clerk of the court, the town clerk-treasurer elected under IC 36-5-6-4 shall perform the duties of the clerk of the town court.

(c) The clerk and bailiff may not receive any fees or compensation other than their ~~respective~~ salaries.

SECTION 1305. IC 33-10.1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.1-6-2] Sec. 2. (a) In second class cities, the city clerk is the clerk of the city court. The city clerk of a third class city is the clerk of the city court if the judge does not serve as clerk or appoint a clerk under section ~~1.1~~ **1** of this chapter.

(b) A city clerk of a second or third class city or an appointed clerk in a third class city who serves as the clerk of the city court shall give bond as prescribed in this chapter.

(c) The clerk may administer oaths.

(d) The clerk of a city or town court shall:

(1) issue all process of the court, affix the seal of the court to ~~it,~~ **the process,** and attest ~~it;~~ **to the process;**

(2) keep a complete record and docket of all cases showing:

(A) ~~what persons were~~ **the name of a person who was** arrested and brought before the court;

(B) ~~how the cases were disposed~~ **the disposition** of **the case;** and

(C) ~~giving~~ an account of the:

(i) fees;

(ii) fines;

(iii) penalties;

(iv) forfeitures;

(v) judgments;

(vi) executions;

(vii) decrees; and

(viii) orders;

in **as near to** the same manner ~~as nearly as may be,~~ as ~~such~~ **the** records are kept by the clerk of the circuit court; and

(3) collect all:

(A) fees;

(B) fines;

(C) penalties and forfeitures;

(D) judgments;

(E) executions; and

(F) money;

accruing to the city or town from the enforcement of ordinances.

~~(b)~~ **(e)** At the close of each week, the clerk shall make out and deliver to the city controller a written report of all cases in which the clerk has received or collected any fines or forfeitures due the city or town. The clerk shall then pay over the money to the controller and take a receipt for ~~them.~~ **the payment.**

(f) At the end of each month, the clerk shall make out and deliver to the county treasurer of the county in which the city or town is located a written report of all cases in which the clerk has received or collected any fines or forfeitures due the state during the month and then pay to the county treasurer all fines or forfeitures collected, taking a receipt for ~~them.~~ **the payment.**

(g) In ~~those~~ cities where the county treasurer rather than the city controller receives city money for deposit, the clerk shall report and deliver the money to the county treasurer.

~~(c)~~ **(h)** The clerk shall deposit all court costs collected by the clerk in accordance with [IC 33-19-1-3.] The clerk shall distribute the state

and county share of court costs collected in accordance with [IC 33-19-7-4.]

SECTION 1306. IC 33-10.1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.1-6-3] Sec. 3. (a) The bailiff of the city court must be a police officer of the city assigned to the court by the chief of police, under direction of the board of public safety. However, the judge of the city court may appoint another person to serve as bailiff.

(b) The bailiff shall give bond payable to the city in the penal sum of one thousand dollars ($1,000), with surety to be approved by the mayor, conditioned on the faithful and honest discharge of ~~his~~ **the bailiff's** duties. The bond shall be filed in the office of the controller or clerk-treasurer.

(c) The bailiff **shall do the following:**

(1) ~~shall~~ Be present at the sessions of the court, maintaining order and performing all other duties subject to the order of the court.

(2) ~~shall~~ Take charge of all executions issued by the court and see to the collection of ~~them;~~ **the executions.**

(3) ~~shall~~ Keep, in books to be furnished ~~him~~ by the controller or clerk-treasurer, an accurate account and docket of all executions that come into ~~his~~ **the bailiff's** hands, showing:

(A) the names of the defendants;

(B) date and number of the execution;

(C) amount of fines, fees, or penalties imposed; and

(D) the disposition of the execution. ~~and~~

(4) ~~shall~~ Make out and deliver a written report to the clerk of the court, or to the judge acting as clerk, on Tuesday of each week, showing all money collected by ~~him~~ **the bailiff** during the previous week, giving the:

(A) names of the defendants;

(B) number of executions; **and**

(C) amount of fines, and fees, or penalties collected;

and then pay the money to the clerk, or judge acting as clerk, taking ~~his~~ **the clerk's** receipt for ~~them.~~ **the payments.**

(d) The salary of the bailiff of the court shall be fixed as salaries of other police officers are fixed.

~~(b)~~ **(e)** The bailiff of a city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be appointed by the judge of the court. The bailiff shall serve and execute all processes issued by the court and is entitled to receive a salary fixed by the common council of the city. In addition, the bailiff may collect a fee from the defendant for ~~his~~ **the bailiff's** own use on all execution sales of property under an execution or attachment

as follows:

(1) On the first fifty dollars ($50), ten percent (10%).

(2) Between fifty dollars ($50) and three hundred dollars ($300), five percent (5%).

(3) On all sums over three hundred dollars ($300), three percent (3%).

(4) Any additional sum necessarily expended by ~~him~~ **the bailiff** in collecting the judgment.

A bailiff may use ~~his~~ **the bailiff's** private vehicle in the performance of ~~his~~ **the bailiff's** duties and is entitled to receive a sum for mileage equal to the sum paid per mile to state officers and employees. The payment to the bailiff is subject to the approval of the judge. The judge shall include in the budget for the court sufficient money to provide for the anticipated claims of the bailiff. The common council shall make annual appropriations that are necessary to carry out this subsection.

SECTION 1307. IC 33-10.1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.1-6-4] Sec. 4. The town marshal or a deputy marshal shall serve all process issuing from the town court.

SECTION 1308. IC 33-10.1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.1-6-5] Sec. 5. (a) The common council of a city having a city court may create the position of city court referee to assist the city court judge in the administration of ~~his~~ **the judge's** duties and the disposition of ~~those~~ matters pending in the court. The common council may authorize more than one (1) referee. After authorization is granted, the judge shall appoint one (1) or more referees. The referee or referees serve at the pleasure of the judge.

(b) A referee shall take the same oath of office as provided for the judge and must have the same qualifications for office as required for the judge. A referee may administer oaths in the performance of ~~his~~ **the referee's** duty and use the seal of the court. In all cases coming before ~~him,~~ **the referee,** the referee shall comply with the requirements of procedure provided for the hearing of cases by the court. ~~He~~ **The referee** shall make a return of ~~his~~ **the referee's** findings and recommendations in writing to the court, ~~which~~ **and the court** shall proceed to enter the order, judgment, or decree that ~~it~~ **the court** considers proper.

(c) The salary of a referee shall be fixed by the judge subject to the approval of the common council of the city. The common council shall appropriate sufficient money to pay the referee.

SECTION 1309. IC 33-10.1-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.1-6-6] Sec. 6. **(a)** The prosecuting attorney of the judicial circuit in which the city is

located shall prosecute all cases in a city court for violation of statutes.

(b) The city attorney shall prosecute all cases of **city ordinance** violations. ~~of the ordinances of the city.~~

SECTION 1310. IC 33-10.1-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.1-6-7] Sec. 7. A judge of a city or town court shall provide, at the expense of the city or town, all books, dockets, papers, and printed blanks necessary for the discharge of the duties of the court.

SECTION 1311. IC 33-10.1-6-10, AS AMENDED BY P.L.167-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.1-6-10] Sec. 8. (a) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with [IC 33-19-1-3.] The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(b) If the party instituting an action or proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee prescribed under [IC 33-19-5-5.]

(c) Money paid in advance for costs remaining unexpended at the time an action or proceeding is terminated, whether by reason of dismissal or otherwise, shall be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of **the state's** political subdivisions.

(d) This section expires July 1, 2005.

SECTION 1312. IC 33-10.1-6-10, AS AMENDED BY P.L.167-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-10.1-6-10] Sec. 9. (a) **This section applies after June 30, 2005.**

(b) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with [IC 33-19-1-3.] The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

~~(b)~~ **(c)** If the party instituting an action or proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee and the small claims service fee prescribed under [IC 33-19-5-5.]

~~(c)~~ **(d)** Money paid in advance for costs remaining unexpended at the time an action or proceeding is terminated, whether by reason of dismissal or otherwise, ~~shall~~ **must** be returned to the party or parties making payment. However, this section does not apply to civil actions

or proceedings instituted by or on behalf of the state or any of **the state's** political subdivisions.

Chapter 4. Court Sessions; Compensation; Restrictions on Activities of Judges

SECTION 1313. IC 33-10.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-4-1] Sec. 1. (a) A city court judge shall hold regular sessions of the city court at a place to be provided and designated by the legislative body of the city.

(b) A town court judge shall hold sessions of the town court as the business of the court demands at a place to be provided and designated by the legislative body of the town.

SECTION 1314. IC 33-10.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-4-2] Sec. 2. (a) Special judges of a city court are entitled to the compensation allowed special judges in the circuit court, to be paid out of the city treasury on the certificate of the regular judge and the warrant of the city controller or clerk-treasurer.

(b) A city court judge may not receive any fees or compensation other than the judge's salary, as established under subsection (e).

(c) A city court judge of each of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is entitled to receive for additional services that this article requires to be performed three thousand five hundred dollars ($3,500) per year in addition to the salary otherwise provided. The fiscal body of the city shall appropriate the money necessary to pay the additional compensation.

(d) A town court judge is entitled to receive the compensation that is prescribed by the fiscal body of the town.

(e) A city court judge is entitled to receive compensation that is prescribed by the fiscal body of the city.

SECTION 1315. IC 33-10.1-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-4-3] Sec. 3. A city court judge may not act as attorney, agent, or counsel for the applicant in a proceeding to procure a license to retail or wholesale intoxicating liquors under IC 7.1 or aid or assist in any manner in the procuring of such a license. A person who recklessly violates this section commits a Class B misdemeanor.

Chapter 5. Records; Procedures; Practices

SECTION 1316. IC 33-10.1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-1] Sec. 1. City courts are governed by the laws and rules governing the practice, pleading, and processes in circuit courts.

SECTION 1317. IC 33-10.1-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-2] Sec. 2. A

change of venue may not be taken from a city or town court. ~~but any~~ **However, a** defendant may take a change of venue from the judge of the court, with a special judge appointed as provided for the circuit court.

SECTION 1318. IC 33-10.1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-3] Sec. 3. All warrants or other processes issued by the city court ~~shall~~ **must** be:

(1) directed to the chief of police of the city or any person specially deputized by the city court; and ~~shall be~~

(2) executed, served, and returned by the chief, by any police officer of the city, or by the specially deputized person.

The members of the police force of the city shall cause all persons arrested by ~~them~~ **the police force** for a violation of any law to be taken before the city court for trial or examination.

SECTION 1319. IC 33-10.1-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-4] Sec. 4. (a) City courts of the three (3) cities having the largest populations in counties having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall keep the following books of record on the civil side of the court:

(1) A loose-leaf minute book, similar to that kept by the circuit court, each case to be numbered consecutively in order of its filing.

(2) Index and cross-index book, containing the names of all parties to each action with the number of the case opposite the name.

(3) A fee book as is provided for city courts.

(4) An order book in which all orders of a cause ~~shall be~~ **are** written consecutively when final judgment or order is entered.

(b) The cause should bear the same number as originally given the case when filed and ~~shall~~ **must** be arranged in the order book consecutively according to the original number given the case when filed. All orders, proceedings, records of issuing execution, returns of execution, and satisfactions of execution shall be grouped together, if practical, on one (1) page or consecutive pages where there is not sufficient room to group it on one (1) page. All costs in a cause shall be taxed on the margin of the page containing the final order or judgment. All orders not connected with a specific case, such as general appointments made by the judge, shall be entered in the minute book under a separate number and recorded in the record book under that number.

SECTION 1320. IC 33-10.1-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-5] Sec. 5. All issues of fact pending in city courts shall be tried by the judge, unless either party demands a jury trial. The jury must consist of six (6)

qualified voters of the city, to be summoned by the bailiff by venire issued by the judge.

SECTION 1321. IC 33-10.1-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-6] Sec. 6. The style of the city or town court is "The (City or Town) Court of _____," according to the name of the city or town.

SECTION 1322. IC 33-10.1-5-7, AS AMENDED BY P.L.133-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-7] Sec. 7. (a) A city court is not a court of record.

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

(c) A person selected as judge of the following courts 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.

SECTION 1323. IC 33-10.1-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-8] Sec. 8. (a) All judgments, decrees, orders, and proceedings of city and town courts have the same force as those of the circuit court. A judgment becomes a lien on real estate when a transcript of the judgment is filed with the clerk of the circuit court.

(b) All orders of sale and executions affecting real estate from the city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be issued by the clerk of the circuit court to the sheriff upon the filing of a certified copy of the judgment. When the copy is filed, the court rendering the judgment has no further jurisdiction of the case except to furnish a transcript for appeal. The life of a lien may be continued in force when the action is started in the city court, as though the action were filed in the circuit court, by filing with the clerk of the circuit court a certificate, certified to by the judge of the city court and containing:

(1) the names of the parties to the suit;
(2) the nature of the action;
(3) the description of the property affected; and
(4) the amount in controversy.

The judge shall enter minutes on the docket showing the issuing of the certificates.

SECTION 1324. IC 33-10.1-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-9] Sec. 9. (a) An appeal from a judgment of a city court may be taken to the circuit or superior court of the county and tried de novo.

(b) An appeal from a judgment of a town court may be taken to the superior or circuit court of the county within thirty (30) days ~~from~~ **after** the rendition of the judgment.

(c) A prisoner against whom punishment is adjudged by a city court may appeal to the circuit court of the county, within thirty (30) days after the judgment. If the prisoner, within the thirty (30) days, enters into recognizance for his appearance in court and causes to be filed in the court, within forty-five (45) days, all other papers, documents, and transcripts necessary to complete his appeal, then the appeal stays all further proceedings on the judgment in the court below. However, the prisoner may remain in jail on ~~his~~ **the prisoner's** sentence instead of furnishing a recognizance and an appeal without recognizance does not stay the execution of the court below.

SECTION 1325. IC 33-10.1-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-10.1-5-10] Sec. 10. (a) A party in a civil action who desires to take an appeal from the city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall file a bond, to the approval of the city court, within thirty (30) days ~~from~~ **after** the date of rendition of final judgment, and the motion to correct errors within ten (10) days after the rendition of final judgment. The transcript and motion shall be filed in the court to which the appeal is taken within thirty (30) days after the motion has been signed by the court.

(b) All errors saved shall be reviewed as far as justice warrants, and for that purpose, a complete transcript of all the evidence is not required. An error occurring during the trial, not excepted to at the time, may be made available upon appeal by setting it forth in a motion for a new trial. Upon application within the time fixed, either of the parties to the suit may obtain either:

(1) a correct statement, to be prepared by the party requesting the signing of the same, of the facts in a narrative form appearing upon the trial and of all questions of law involved in the case and the decisions of the court upon the questions of law; or

(2) a correct stenographic report;

and the expense of procuring the ~~same~~ **correct statement or correct stenographic report** shall be paid by the party requesting the ~~same~~ **correct statement or correct stenographic report.**

(c) The appeal shall be:

(1) submitted upon the date filed in the court to which the appeal is taken;

(2) ~~shall be~~ advanced upon the docket of that court; and

(3) s~~hall be~~ determined at the earliest practical date, without any extension of time for filing of briefs;

but the court to which appeal is taken may, on application, hear oral arguments.

(d) If judgment is affirmed on appeal, it may be increased by ten percent (10%), **in addition to any interest that may be allowed,** if the appeal is found to be frivolous. ~~in addition to any interest that may be allowed~~.

(e) A change of venue may be taken from the judge to which the cause is appealed as provided by law for taking changes of venue from the judge of the circuit court.

(f) The court to which appeal is taken shall render its opinion in abbreviated form by simply citing the controlling authorities in the case, unless it appears that some new question of practice, procedure, or law is involved that would warrant a more extensive opinion.

SECTION 1326. IC 33-36 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 36. ORDINANCE VIOLATIONS BUREAUS

Chapter 1. Definitions

SECTION 1327. IC 33-6-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-6-3-1(a)] Sec. 1. ~~(a)~~ The definitions in IC 36-1-2 apply throughout this ~~chapter.~~ **article.**

Chapter 2. Establishment

SECTION 1328. IC 33-6-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-6-3-1(b)] Sec. 1. ~~(a) The definitions in IC 36-1-2 apply throughout this chapter. (b)~~ The legislative body of a municipal corporation may establish, by ordinance or code, an ordinance violations bureau. Upon the creation of a bureau, the legislative body shall provide for the appointment of a violations clerk (who may be the clerk or clerk-treasurer of the municipal corporation) to be the administrator of the bureau.

[33-6-3-1(c)] Sec. 2. ~~(c)~~ If the legislative body does not establish an ordinance violations bureau under ~~subsection (b),~~ **section 1 of this chapter,** the clerk or clerk-treasurer of the municipal corporation is designated the violations clerk for purposes of this chapter.

[33-6-3-1(d)] Sec. 3. ~~(d)~~ The violations clerk may accept:

(1) written appearances;

(2) waivers of trial;

(3) admissions of violations; and

(4) payment of civil penalties of not more than one hundred dollars ($100);

in ordinance violation cases, subject to the schedule prescribed under ~~section 2 of this chapter~~ **?????** by the legislative body.

Chapter 3. Schedule of Ordinance and Code Provisions; Violations

SECTION 1329. IC 33-6-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-6-3-2(a)] Sec. 1. (a) Upon the appointment or designation of the violations clerk as provided by ~~section 1 of this chapter,~~ **?????** the legislative body shall designate, by ordinance or code, a schedule of ordinance and code provisions of the municipal corporation that are subject to admission of violation before the violations clerk and the amount of civil penalty to be assessed a violator who elects to admit a violation under this chapter.

(b) Civil penalties shall be paid to, receipted, and accounted for by the clerk under procedures provided for by the state board of accounts. Payment of civil penalties under this chapter may be made in person, by mail, or to an agent or agents designated by the legislative body.

[33-6-3-2(b)] Sec. 2. ~~(b)~~ A person charged with an ordinance or code violation under this ~~chapter~~ **article** is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the violations clerk. Upon ~~such~~ an admission, the clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under ~~subsection (a).~~ **?????.**

[33-6-3-2(c)] Sec. 3. ~~(c)~~ If a person charged with a violation under this ~~chapter~~ **article** wants to exercise the right to trial, the person shall appear before the violations clerk and deny the violation or enter a written denial with the clerk.

[33-6-3-2(d)] Sec. 4. ~~(d)~~ In a county having a consolidated city, the schedule of ordinance violations designated by a municipal corporation under this ~~section~~ **chapter** must also be approved by the city-county legislative body.

SECTION 1330. IC 33-6-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-6-3-3] Sec. 5. (a) If a person:

(1) denies an ordinance or code violation under this ~~chapter,~~ **article;**

(2) fails to satisfy a civil penalty assessed by the violations clerk after having entered an admission of violation; or

(3) fails to deny or admit the violation under this ~~chapter,~~ **article;**

the clerk shall report this fact to the official having the responsibility to prosecute ordinance violation cases for the municipal corporation.

(b) Proceedings in court against the person shall then be initiated for the alleged ordinance violation.

SECTION 1331. IC 33-6-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-6-3-5] Sec. 6. **(a)** An

ordinance violation admitted under this ~~chapter~~ **article** does not constitute a judgment for the purposes of IC 33-19. ~~and~~ An ordinance violation costs fee may not be collected from the defendant under ~~IC 33-19-5.~~ **????.**

(b) ~~In addition,~~ An ordinance violation processed under this chapter may not be considered for the purposes of ~~IC 33-19-7-3~~ **????** when determining the percentage of ordinance violations prosecuted in certain courts.

SECTION 1332. IC 33-6-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-6-3-5] Sec. 7. All sums collected by the violations clerk as civil penalties for ordinance violations shall be accounted for and paid to the municipal corporation as provided by law.

SECTION 1333. IC 33-37 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 37. COURT FEES

Chapter 1. Applicability and Definitions

SECTION 1334. IC 33-19-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-1-1] Sec. 1. This article applies to all proceedings in **the following courts:**

(1) Circuit courts (Article 7, Section 7 of the Constitution of the State of Indiana and IC 33-4).

(2) Superior courts ~~(IC 33-5).~~ **????.**

(3) County courts ~~(IC 33-10.5).~~ **????.**

(4) Probate courts ~~(IC 33-8).~~ **????.**

~~(5) municipal courts (IC 33-6); and~~

~~(6)~~ **(5)** City and town courts ~~(IC 33-10.1).~~ **????.**

SECTION 1335. IC 33-19-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-1-2] Sec. 2. As used in this article, "clerk" ~~means.~~ **refers to any of the following:**

(1) A clerk of a circuit court under ~~IC 33-17-1-1.~~ **IC 33-17 ????.**

(2) The clerk of a city or town court under ~~IC 33-10.1~~ **????.** ~~or~~

(3) The judge of a city or town court that does not have a clerk.

SECTION 1336. IC 33-19-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-1-9] Sec. 3. The costs imposed by this article are for all proceedings in the action.

SECTION 1337. IC 33-19-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-4-4] Sec. 4. (a) If publication by notice is required by law in any action, the party or the attorney for the party from whom the notice is required shall pay the cost of publication directly to the publisher of the notice.

(b) The party or the attorney for the party shall file with the clerk proof of publication of the notice.

Chapter 2. General Court Costs Provisions for Criminal Actions

SECTION 1338. IC 33-19-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-2-1] Sec. 1. This chapter applies in criminal actions.

SECTION 1339. IC 33-19-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-2-2] Sec. 2. (a) Costs in a criminal action are not a part of the sentence and may not be suspended. However, if:

(1) two (2) or more charges against a person are joined for trial; and

(2) the person is convicted of two (2) or more offenses in the trial; the court may waive the person's liability for costs for all but one (1) of the offenses.

(b) If a person is acquitted or an indictment or information is dismissed by order of the court, the person is not liable for costs.

SECTION 1340. IC 33-19-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-2-3] Sec. 3. (a) When the court imposes costs, it shall conduct a hearing to determine whether the convicted person is indigent. If the person is not indigent, the court shall order the person to pay:

(1) the entire amount **of the costs** at the time sentence is pronounced;

(2) the entire amount **of the costs** at some later date; or

(3) specified parts **of the costs** at designated intervals.

(b) Upon any default in the payment of the costs:

(1) an attorney representing the county may bring an action on a debt for the unpaid amount; or

(2) the court may direct that the person, if the person is not indigent, be committed to the county jail and credited toward payment at the rate of twenty dollars ($20) for each twenty-four (24) hour period the person is confined, until the amount paid plus the amount credited equals the entire amount due.

(c) If, after a hearing under subsection (a), the court determines that a convicted person is able to pay part of the costs of representation, the court shall order the person to pay an amount of not more than the cost of the defense services rendered on behalf of the person. The clerk of the court shall deposit the amount paid by a convicted person under this subsection in the county's supplemental public defender services fund established under [IC 33-9-11.5-1.]

(d) A person ordered to pay part of the cost of representation under subsection (c) has the same rights and protections as those of other judgment debtors under the Constitution of the State of Indiana and ~~under~~ Indiana law.

SECTION 1341. IC 33-19-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-2-4] Sec. 4. (a) The

state shall pay all costs of trial in a prosecution for an offense committed:

(1) by an inmate of a state correctional facility; and

(2) in the county in which the correctional facility is located.

(b) The costs of trial to be paid under this section include:

(1) court fees; and

(2) expenses incurred by the county sheriff in returning the defendant to the jurisdiction of the court and keeping the defendant in custody until trial.

SECTION 1342. IC 33-19-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-2-5] Sec. 5. The fees prescribed by [IC 33-19-5-1] are costs and may be collected from a defendant against whom a conviction is entered. ~~Any~~ **A** fine or penalty imposed is in addition to costs.

Chapter 3. General Court Costs Provisions for Civil Actions

SECTION 1343. IC 33-19-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-3-1] Sec. 1. (a) The fees prescribed in civil actions or paternity actions may not be collected from the state or a political subdivision in an action brought by or on behalf of the state or ~~any~~ **the** political subdivision.

(b) This section does not prevent ~~the~~ collecting ~~of~~ fees from a defendant when the state or political subdivision is successful in its action.

SECTION 1344. IC 33-19-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-3-2] Sec. 2. A person entitled to bring a civil action or to petition for the appointment of a guardian under IC 29-3-5 may do so without paying the required fees or other court costs ~~upon filing~~ **if the person files a statement** in court, under oath and in writing: ~~a statement:~~

(1) declaring that the person is unable to make the payments or to give security for ~~them~~ **the payments** because of the person's indigency;

(2) declaring that the person believes that the person is entitled to the redress sought in the action; and

(3) setting forth briefly the nature of the action.

SECTION 1345. IC 33-19-3-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-3-2.5] Sec. 3. ~~(a) As used in this section, "offender" means a person confined by the department of correction.~~

~~(b)~~ **(a)** When an offender **confined by the department of correction** commences an action or a proceeding without paying fees or other court costs under [section 2] of this chapter, the offender shall obtain from the appropriate official of the correctional facility or facilities at which the offender is or was confined, a certified copy of the prisoner's trust fund account statement for the six (6) months

immediately preceding submission of the complaint or petition. The offender shall file the trust fund account statement in addition to the statement required under [section 2] of this chapter.

~~(c)~~ **(b)** The offender shall pay a partial filing fee that is twenty percent (20%) of the greater of:

(1) the average monthly deposits to the offender's account; or

(2) the average monthly balance in the offender's account;

for the six (6) months immediately preceding the filing of the complaint or petition. However, the fee may not exceed the full statutory fee for the commencement of actions or proceedings.

~~(d)~~ **(c)** If the offender claims exceptional circumstances that render the offender unable to pay the partial filing fee required by this section, in addition to the statement required by [section 2] of this chapter and the statement of account required by subsection ~~(b),~~ **(a),** the offender shall submit an affidavit of special circumstances setting forth the reasons and circumstances that justify relief from the partial filing fee requirement.

~~(e)~~ **(d)** If the court approves the application to waive all fees, the court shall give written notice to the offender that all fees and costs relating to the filing and service will be waived. If the court denies the application to waive all fees, the court shall give written notice to the offender that the offender's case will be dismissed if the partial filing fee is not paid ~~within~~ **not later than** forty-five (45) days after the date of the order, or within an additional period that the court may, upon request, allow. Process concerning the offender's case may not be served until the fee is paid.

SECTION 1346. IC 33-19-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-3-3] Sec. 4. A party for whom judgment is entered in a civil action is entitled to recover costs.

SECTION 1347. IC 33-19-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-3-4] Sec. 5. The prepayment of fees under this chapter is not required in ~~appeals~~ **an appeal** of **a** civil ~~matters~~ **matter** to **a** circuit ~~courts~~ **court** from ~~courts~~ **a court** of inferior jurisdiction.

SECTION 1348. IC 33-19-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-3-5] Sec. 6. Court costs fees under this chapter include service of process by certified mail, unless service by **the** sheriff is requested by the person who institutes the action.

SECTION 1349. IC 33-19-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-3-6] Sec. 7. If personal service of process is carried out by a process server other than the sheriff, the party who paid for the private service is entitled to reimbursement of the cost of the private service as a part of any

judgment that party may recover.

SECTION 1350. IC 33-19-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-3-7] Sec. 8. Notwithstanding ~~IC 33-19-5-4,~~ **????,** the clerk may not collect a separate civil fee for a name change action initiated under IC 31-15-2-18.

SECTION 1351. IC 33-19-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-4-1] Sec. 9. Prepayment of fees is not required in proceedings for **either of the following:**

(1) Adoption. ~~or~~

(2) The appointment of a guardian.

Chapter 4. Collection of Court Cost Fees

SECTION 1352. IC 33-19-5-1, AS AMENDED BY P.L.1-2002, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-5-1] Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars ($120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under [IC 33-19-6:]

(1) A document fee **(IC 33-19-6-1, IC 33-19-6-2, or IC 33-19-6-3 ????).**

(2) A marijuana eradication program fee **(IC 33-19-6-6 ????).**

(3) An alcohol and drug services program user fee **(IC 33-19-6-7(b) ????).**

(4) A law enforcement continuing education program fee **(IC 33-19-6-7(c) ????).**

(5) A drug abuse, prosecution, interdiction, and correction fee **(IC 33-19-6-9????).**

(6) An alcohol and drug countermeasures fee **(IC 33-19-6-10 ????).**

(7) A child abuse prevention fee **(IC 33-19-6-12 ????).**

(8) A domestic violence prevention and treatment fee **(IC 33-19-6-13 ????).**

(9) A highway work zone fee **(IC 33-19-6-14 ????).**

(10) A deferred prosecution fee (IC 33-19-6-16.2 **????**).

(11) A document storage fee (IC 33-19-6-18.1 **????**).

(12) An automated record keeping fee (IC 33-19-6-19 **????**).

(13) A late payment fee (IC 33-19-6-20 **????**).

(14) A sexual assault victims assistance fee (IC 33-19-6-21 **????**).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into

under ~~IC 33-14-1-7~~ **????** requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of fifty dollars ($50); and

(2) a monthly user's fee of ten dollars ($10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, ~~within~~ **not later than** thirty (30) days after ~~they~~ **the fees** are collected: ~~for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8.~~

(1) The pretrial diversion fee.

(2) The marijuana eradication program fee.

(3) The alcohol and drug services program user fee.

(4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-19-8 ????.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) ~~First,~~ The clerk shall apply the partial payment to general court costs.

(2) ~~Second,~~ If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the **remainder of the** partial payment for deposit in the appropriate county user fee fund.

(3) ~~Third,~~ If there is money remaining after distribution under subdivision (2), the clerk shall distribute the **remainder of the** partial payment for deposit in the state user fee fund.

(4) ~~Fourth,~~ If there is money remaining after distribution under subdivision (3), the clerk shall distribute the **remainder of the** partial payment to any other applicable user fee fund.

(5) ~~Fifth,~~ If there is money remaining after distribution under subdivision (4), the clerk shall apply the **remainder of the** partial payment to any outstanding fines owed by the defendant.

SECTION 1353. IC 33-19-5-2, AS AMENDED BY P.L.1-2002, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-5-2] Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or

(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars ($70).

(b) In addition to the infraction or ordinance violation costs fee

collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

(1) A document fee (IC 33-19-6-1, IC 33-19-6-2, **or** IC 33-19-6-3 **????**).

(2) An alcohol and drug services program user fee (IC 33-19-6-7(b) **????**).

(3) A law enforcement continuing education program fee (IC 33-19-6-7(c) **????**).

(4) An alcohol and drug countermeasures fee (IC 33-19-6-10 **????**).

(5) A highway work zone fee (IC 33-19-6-14 **????**).

(6) A deferred prosecution fee (IC 33-19-6-16.2 **????**).

(7) A jury fee (IC 33-19-6-17 **????**).

(8) A document storage fee (IC 33-19-6-18.1 **????**).

(9) An automated record keeping fee (IC 33-19-6-19 **????**).

(10) A late payment fee (IC 33-19-6-20 **????**).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, ~~within~~ **not later than** thirty (30) days after ~~they~~ **the fees** are collected: ~~for deposit by the auditor or fiscal officer in the user fee fund established under IC 33-19-8:~~

(1) The alcohol and drug services program user fee **(IC 33-19-6-7(b) ????).**

(2) The law enforcement continuing education program fee **(IC 33-19-6-7(c) ????).**

(3) The deferral program fee **(subsection e).**

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-19-8 ????.

(d) The defendant is not liable for any ordinance violation costs fee in an action ~~in which:~~ **if all the following apply:**

(1) The defendant was charged with an ordinance violation subject to ~~IC 33-6-3.~~ **????**.

(2) The defendant denied the violation under ~~IC 33-6-3-2.~~ **????**.

(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal). ~~and~~

(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars ($52); and

(2) a monthly user's fee not to exceed ten dollars ($10) for each month the person remains in the deferral program.

SECTION 1354. IC 33-19-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-4-2] (f) The fees prescribed by ~~IC 33-19-5-2~~ **this chapter** are costs for purposes of IC 34-28-5-4 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 1355. IC 33-19-5-3, AS AMENDED BY P.L.1-2002, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-5-3] Sec. 3. (a) **The clerk shall collect a juvenile costs fee of one hundred twenty dollars ($120)** for each action filed under **any of the following:**

(1) IC 31-34 ~~or~~ **(children in need of services).**

(2) IC 31-37 (delinquent children). ~~and children in need of services); or~~

~~(2)~~ **(3)** IC 31-14 (paternity).

~~the clerk shall collect a juvenile costs fee of one hundred twenty dollars ($120).~~

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under [IC 33-19-6:]

(1) A document fee **(IC 33-19-6-1, IC 33-19-6-2, or IC 33-19-6-3 ????).**

(2) A marijuana eradication program fee **(IC 33-19-6-6 ????).**

(3) An alcohol and drug services program user fee **(IC 33-19-6-7(b) ????).**

(4) A law enforcement continuing education program fee **(IC 33-19-6-7(c) ????).**

(5) An alcohol and drug countermeasures fee **(IC 33-19-6-10 ????).**

(6) A document storage fee ~~(IC 33-19-6-18.1).~~ **????.**

(7) An automated record keeping fee ~~(IC 33-19-6-19).~~ **????.**

(8) A late payment fee ~~(IC 33-19-6-20).~~ **????.**

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees ~~within~~ **not later than** thirty (30) days after they are collected: ~~for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8.~~

(1) The marijuana eradication program fee **(IC 33-19-6-6 ????).**

(2) The alcohol and drug services program user fee **(IC 33-19-6-7(b) ????).**

(3) The law enforcement continuing education program fee **(IC 33-19-6-7(c) ????).**

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-19-8 ????.

SECTION 1356. IC 33-19-5-4, AS AMENDED BY P.L.1-2002, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-5-4] Sec. 4. (a) ~~For each~~ **The clerk shall collect a civil costs fee of one hundred dollars ($100) from a party filing a civil action. This subsection does not apply to the following** civil ~~action except:~~ **actions:**

(1) Proceedings to enforce a statute defining an infraction under ~~IC 34-28-5-4~~ **IC 34-28-5** (or ~~IC 34-4-32-4~~ **IC 34-4-32** before its repeal).

(2) Proceedings to enforce an ordinance under ~~IC 34-28-5-4~~ **IC 34-28-5** (or ~~IC 34-4-32-4~~ **IC 34-4-32** before its repeal).

(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

(4) Proceedings in paternity under IC 31-14.

(5) Proceedings in small claims court under IC 33-11.6. ~~and~~

(6) Proceedings in actions ~~under~~ **described in** [section 6] of this chapter.

~~the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars ($100).~~

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under [IC 33-19-6:]

(1) A document fee **(IC 33-19-6-1, IC 33-19-6-2, or IC 33-19-6-3 ????).**

(2) A support and maintenance fee **(IC 33-19-6-5 ????).**

(3) A document storage fee ~~(IC 33-19-6-18.1).~~ **????.**

(4) An automated record keeping fee ~~(IC 33-19-6-19).~~ **????.**

SECTION 1357. IC 33-19-5-5, AS AMENDED BY P.L.164-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-5-5] Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars ($35). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees if they are required under ~~IC 33-19-6.~~ **????**:

(1) A document fee **(IC 33-19-6-1, IC 33-19-6-2, or IC 33-19-6-3 ????).**

(2) A document storage fee ~~(IC 33-19-6-18.1).~~ **????**.

(3) An automated record keeping fee ~~(IC 33-19-6-19).~~ **????**.

(c) This section expires July 1, 2005.

SECTION 1358. IC 33-19-5-5, AS AMENDED BY P.L.167-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-5-5] Sec. 6. (a) **This section applies after June 30, 2005.**

(b) For each small claims action, the clerk shall collect from the party filing the action ~~a:~~ **both of the following fees:**

(1) **A** small claims costs fee of thirty-five dollars ($35). ~~and~~

(2) **A** small claims service fee of five dollars ($5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

~~(b)~~ **(c)** In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees if they are required under ~~IC 33-19-6.~~ **????**:

(1) A document fee **(IC 33-19-6-1, IC 33-19-6-2, or IC 33-19-6-3 ????).**

(2) A document storage fee ~~(IC 33-19-6-18.1).~~ **????**.

(3) An automated record keeping fee ~~(IC 33-19-6-19).~~ **????**.

SECTION 1359. IC 33-19-5-6, AS AMENDED BY P.L.1-2002, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-5-6] Sec. 7. (a) Except as provided under subsection (c), **the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars ($120)** for each action filed under **any of the following:**

(1) IC 6-4.1-5 (determination of inheritance tax).

(2) IC 29 (probate). ~~and~~

(3) IC 30 (trusts and fiduciaries).

~~the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars ($120).~~

(b) In addition to the probate costs fee collected under ~~this section,~~ **subsection (a),** the clerk shall collect from the party filing the action the following fees if they are required under ~~IC 33-19-6.~~ **????:**

(1) A document fee **(IC 33-19-6-1, IC 33-19-6-2, or IC 33-19-6-3 ????).**

(2) A document storage fee ~~(IC 33-19-6-18.1).~~ **????**.

(3) An automated record keeping fee ~~(IC 33-19-6-19).~~ **????.**

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 1360. IC 33-19-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-4-3] Sec. 8. (a) This section applies in all actions listed in ~~IC 33-19-5-4, IC 33-19-5-5, and~~

~~IC 33-19-5-6.~~ **[sections 4, 5, and 6] of this chapter.**

(b) In an action where there has been or will be a change of venue or transfer from one (1) county to another, the clerk of the court from which the action is transferred shall collect from the party seeking change of venue a fee equal to that required by ~~IC 33-19-5-4, IC 33-19-5-5, or IC 33-19-5-6.~~ **[sections 4, 5, and 6] of this chapter.** The clerk of the transferring court shall forward the fee collected under this section to the clerk of the court to which the action is transferred.

SECTION 1361. IC 33-19-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-5-7] Sec. 9. The clerk is not required to show on each receipt for court costs collected the proration of court costs:

(1) remitted to the auditor of state, the county auditor, and the municipality as specified in ~~IC 33-19-7;~~ **????;** or

(2) collected for any funds specified in ~~IC 33-19-6.~~ **????.**

SECTION 1362. IC 33-19-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-1-8] Sec. 10. (a) ~~Within~~ **Not later than** seventy-five (75) days after judgment is entered in an action, the clerk shall issue an itemized fee bill for the collection of fees that were charged against the party in that action and that remain unpaid. The clerk shall present the fee bill for collection to the sheriff of a county where the debtor party resides or where the debtor party has property.

(b) The sheriff shall **do the following:**

(1) Collect the amount due under the fee bill. ~~and~~

(2) Return the fee bill to the clerk not more than sixty (60) days after the day the fee bill was issued.

(c) After ~~the fee bill is~~ presented to the sheriff, ~~it~~ **a fee bill** has the effect of an execution and operates as a lien upon the real and personal property of the debtor.

(d) A successor of an officer may issue fee bills for the fees of the officer's predecessors in office in the manner provided under this chapter. A clerk may issue the fee bills of the sheriff or former sheriffs of the county in the same manner.

Chapter 5. Collection of Additional Fees

SECTION 1363. IC 33-19-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-1] Sec. 1. (a) This section applies to a document fee for preparing a transcript or copy of any record. However, this section does not apply to **either of the following:**

(1) The preparation or copying of a record:

(A) through the use of enhanced access under IC 5-14-3; or

(B) by a governmental entity using an electronic device. ~~and~~

(2) The transmitting of a document by facsimile machine or other electronic device.

(b) Except as provided in subsection (c), the clerk shall collect a fee of one dollar ($1) per legal size or letter size page, including a page only partially covered with writing.

(c) The legislative body of a county may adopt by ordinance a schedule of document fees to be collected by a clerk under this section. If an ordinance has been adopted, the clerk shall collect document fees according to the schedule. However, the document fee collected by the clerk under this subsection may not exceed one dollar ($1) per legal size or letter size page, including a page only partially covered with writing.

SECTION 1364. IC 33-19-6-1.5, AS AMENDED BY P.L.280-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-1.5] Sec. 2. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit **all the following** in the fund: ~~all~~

(1) Revenue received by the clerk for ~~the~~ transmitting ~~of~~ documents by facsimile machine to a person under IC 5-14-3.

(2) Document storage fees required under section ~~[18.1~~ **20]** of this chapter. ~~and~~

(3) The late payment fees imposed under [section ~~20~~ **22]** of this chapter that are authorized for deposit in the clerk's record perpetuation fund under [IC 33-19-7-1.]

(b) The clerk may use any money in the fund for the following purposes:

(1) The preservation of records.

(2) The improvement of record keeping systems and equipment.

SECTION 1365. IC 33-19-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-2] Sec. 3. Notwithstanding IC 5-14-3, the clerk shall collect a document fee of one dollar ($1) for each certificate under seal attached in authentication of a copy of any record, paper, or transcript.

SECTION 1366. IC 33-19-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-3] Sec. 4. The clerk shall collect a document fee of three dollars ($3) for preparing or recording a transcript of a judgment to become a lien on real estate.

SECTION 1367. IC 33-19-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-4] Sec. 5. The clerk shall forward document fees collected under this chapter to the county auditor or city or town fiscal officer in accordance with ~~IC 33-19-1-3(a).~~ **????**.

SECTION 1368. IC 33-19-6-5, AS AMENDED BY P.L.39-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-5] Sec. 6. (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk.

(b) The clerk shall collect a fee in addition to support and maintenance payments. The fee is **the following:**

(1) Twenty dollars ($20) for the calendar year in which the initial order is entered, unless the first payment is due after June 30 of that calendar year.

(2) Ten dollars ($10) for the calendar year in which the initial order was entered, if the first payment is due after June 30 of that calendar year. ~~and~~

(3) In each subsequent year in which the initial order or a modified order is in effect, twenty dollars ($20) if the fee is paid before February 1, or thirty dollars ($30) if paid after January 31.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or maintenance payment.

(e) Except as provided under [IC 33-17-1-4(e) and IC 33-19-7-1(g),] the clerk shall forward the fee collected under this section to the county auditor in accordance with [IC 33-19-1-3(a).]

SECTION 1369. IC 33-19-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-6] Sec. 7. (a) This section applies to criminal actions.

(b) The clerk shall collect the marijuana eradication program fee set by the court under IC 15-3-4.6-4.1 if:

(1) a weed control board has been established in the county under IC 15-3-4.6-1; and

(2) the person has been convicted of an offense under IC 35-48-4 in a case prosecuted in that county.

(c) The court may set a fee under this section of not more than three hundred dollars ($300).

[QUERY: NEITHER SUBSECTION (b) NOR THE CHAPTER SEEMS TO AUTHORIZE THE FEE ITSELF?]

SECTION 1370. IC 33-19-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-7] Sec. 8. (a) This section applies to criminal, infraction, and ordinance violation actions. However, it does not apply to a case excluded under ~~IC 33-19-5-2(d).~~ **????**.

(b) The clerk shall collect the alcohol and drug services program fee set by the court under IC 12-23-14-16 in a county that has established an alcohol and drug services program.

(c) In each action in which a defendant is found to have:

(1) committed a crime;

(2) violated a statute defining an infraction; or

(3) violated an ordinance of a municipal corporation;

the clerk shall collect a law enforcement continuing education program

fee of three dollars ($3).

SECTION 1371. IC 33-19-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-9] Sec. 9. (a) This section applies to criminal actions.

(b) The court shall assess a drug abuse, prosecution, interdiction, and correction fee of at least two hundred dollars ($200) and not more than one thousand dollars ($1,000) against a person convicted of an offense under IC 35-48-4.

(c) In determining the amount of the drug abuse, prosecution, interdiction, and correction fee assessed against a person under subsection (b), a court shall consider the person's ability to pay the fee.

(d) The clerk shall collect the drug abuse, prosecution, interdiction, and correction fee set by the court when a person is convicted of an offense under IC 35-48-4.

SECTION 1372. IC 33-19-6-10, AS AMENDED BY P.L.1-2002, SECTION 139, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-10] Sec. 10. (a) **The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars ($200)** in each action in which:

(1) a person is found to have:

~~(1)~~ **(A)** committed an offense under IC 9-30-5;

~~(2)~~ **(B)** violated a statute defining an infraction under IC 9-30-5; or

~~(3)~~ **(C)** been adjudicated a delinquent for an act that would be an offense under IC 9-30-5, if committed by an adult; and

(2) the person's driving privileges are suspended by the court or the bureau of motor vehicles as a result of the finding.

~~the clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars ($200).~~

(b) **The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars ($200)** in each action in which:

(1) a person is charged with an offense under IC 9-30-5; and

(2) by a plea agreement or agreement of the parties that is approved by the court:

~~(1)~~ **(A)** judgment is entered for an offense under:

~~(A)~~ **(i)** IC 9-21-8-50;

~~(B)~~ **(ii)** IC 9-21-8-52;

~~(C)~~ **(iii)** IC 7.1-5-1-3; or

~~(D)~~ **(iv)** IC 7.1-5-1-6; and

~~(2)~~ **(B)** the defendant agrees to pay the alcohol and drug counter measures fee.

~~the clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars ($200).~~

SECTION 1373. IC 33-19-6-11 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-11] Sec. 11. (a) This section applies to an action in a circuit court in a county that has established a program under IC 9-30-9.

(b) The probation department shall collect an alcohol abuse deterrent program fee and a medical fee set by the court under IC 9-30-9-8 and deposit ~~it~~ **the fee** into the supplemental adult probation services fund.

SECTION 1374. IC 33-19-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-12] Sec. 12. **The court shall order a person to pay a child abuse prevention fee of one hundred dollars ($100) to the clerk** in each criminal action in which:

(1) ~~a~~ **the** person is found to have committed the offense of:

(A) murder (IC 35-42-1-1);
(B) causing suicide (IC 35-42-1-2);
(C) voluntary manslaughter (IC 35-42-1-3);
(D) reckless homicide (IC 35-42-1-5);
(E) battery (IC 35-42-2-1);
(F) rape (IC 35-42-4-1);
(G) criminal deviate conduct (IC 35-42-4-2);
(H) child molesting (IC 35-42-4-3);
(I) child exploitation (IC 35-42-4-4);
(J) vicarious sexual gratification (IC 35-42-4-5);
(K) child solicitation (IC 35-42-4-6);
(L) incest (IC 35-46-1-3);
(M) neglect of a dependent (IC 35-46-1-4);
(N) child selling (IC 35-46-1-4); or
(O) child seduction (IC 35-42-4-7); and

(2) the victim of the offense is less than eighteen (18) years of age.

~~the court shall order the person to pay a child abuse prevention fee of one hundred dollars ($100) to the clerk.~~

SECTION 1375. IC 33-19-6-13, AS AMENDED BY P.L.47-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-13] Sec. 13. **The court shall order a person to pay a domestic violence prevention and treatment fee of fifty dollars ($50) to the clerk** in each criminal action in which:

(1) ~~a~~ **the** person is found to have committed the offense of:

(A) murder (IC 35-42-1-1);
(B) causing suicide (IC 35-42-1-2);
(C) voluntary manslaughter (IC 35-42-1-3);
(D) reckless homicide (IC 35-42-1-5);
(E) battery (IC 35-42-2-1);
(F) domestic battery (IC 35-42-2-1.3); or
(G) rape (IC 35-42-4-1); and

(2) the victim:

(A) is a spouse or former spouse of the person who committed an offense under subdivision (1);

(B) is or was living as if a spouse of the person who committed the offense of domestic battery under subdivision (1)(F); or

(C) has a child in common with the person who committed the offense of domestic battery under subdivision (1)(F).

~~the court shall order the person to pay a domestic violence prevention and treatment fee of fifty dollars ($50) to the clerk.~~

SECTION 1376. IC 33-19-6-14, AS AMENDED BY P.L.116-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-14] Sec. 14. (a) This section applies to criminal, infraction, and ordinance violation actions that are traffic offenses (as defined in IC 9-30-3-5).

(b) The clerk shall collect a highway worksite zone fee of fifty cents ($0.50). However, **the clerk shall collect a highway worksite zone fee of twenty-five dollars and fifty cents ($25.50)** if:

(1) the criminal action, infraction, or ordinance violation is:

(A) exceeding a worksite speed limit (as provided in IC 9-21-5-2 and authorized by IC 9-21-5-3); or

(B) failure to merge (as provided in IC 9-21-8-7.5); and

(2) the judge orders the clerk to collect the fee for exceeding a worksite speed limit or failure to merge.

~~the clerk shall collect a highway worksite zone fee of twenty-five dollars and fifty cents ($25.50).~~

SECTION 1377. IC 33-19-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-15] Sec. 15. (a) **The sheriff shall collect from the person who filed the civil action a service of process fee of forty dollars ($40),** in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of process

~~(A)~~ associated with the civil action ~~and~~

~~(B)~~ in Indiana.

~~the sheriff shall collect from the person who filed the civil action a service of process fee of forty dollars ($40).~~

(b) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction. ~~to be deposited.~~

(c) The county auditor shall deposit fees collected under this section:

(1) in the pension trust established by the county under IC 36-8-10-12; or

(2) if the county has not established a pension trust under

IC 36-8-10-12, in the county general fund.

SECTION 1378. IC 33-19-6-15.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-15.5] Sec. 16. In addition to any other duties, a clerk shall do the following:

(1) Collect and transfer additional judgments to a county auditor under IC 9-18-2-41.

(2) Deposit funds collected as judgments in the state highway fund under IC 9-20-18-12.

(3) Deposit funds in the conservation officers fish and wildlife fund under IC 14-22-38-4, IC 14-22-38-5, and IC 14-22-40-8.

(4) Deposit funds collected as judgments in the state general fund under IC 34-28-5-4.

SECTION 1379. IC 33-19-6-16.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-16.2] Sec. 17. (a) This section applies to actions in which the court defers prosecution under ~~IC 33-14-1-7.~~ **????**.

(b) In each action in which prosecution is deferred, the clerk shall collect from the defendant a **deferred prosecution** fee of fifty dollars ($50) for court costs.

SECTION 1380. IC 33-19-6-16.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-16.3] Sec. 18. (a) In each criminal action in which a person is convicted of an offense in which the possession or use of a firearm was an element of the offense, the court shall assess a safe schools fee of ~~not less than~~ **at least** two hundred dollars ($200) and not more than one thousand dollars ($1,000).

(b) In determining the amount of the safe schools fee assessed against a person under subsection (a), a court shall consider the person's ability to pay the fee.

(c) The clerk shall collect the safe schools fee set by the court when a person is convicted of an offense in which the possession or use of a firearm was an element of the offense.

SECTION 1381. IC 33-19-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-17] Sec. 19. (a) **The clerk shall collect a jury fee of two dollars ($2)** in each action in which a defendant is found to have committed a crime, violated a statute defining an infraction, or violated an ordinance of a municipal corporation. ~~the clerk shall collect a jury fee of two dollars ($2).~~

(b) The fee collected under this section shall be deposited into the county user fee fund established by ~~IC 33-19-8-5.~~ **????**.

SECTION 1382. IC 33-19-6-18.1, AS ADDED BY P.L.183-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-18.1] Sec. 20. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect a document storage fee of two dollars

($2).

SECTION 1383. IC 33-19-6-19, AS AMENDED BY P.L.141-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-19] Sec. 21. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect ~~an~~ **the following** automated record keeping fee: ~~of:~~

~~(1) five dollars ($5) before July 1, 2003;~~

~~(2)~~ **(1)** Seven dollars ($7) after June 30, 2003, and before July 1, 2009. ~~and~~

~~(3)~~ **(2)** Four dollars ($4) after June 30, 2009.

SECTION 1384. IC 33-19-6-20, AS AMENDED BY P.L.141-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-20] Sec. 22. (a) Except as provided in subsection (e), this section applies ~~in each~~ **to an** action ~~in which a defendant:~~ **if all the following apply:**

(1) **The defendant** is found, in a court that has a local court rule imposing a late payment fee under this section, to have:

(A) committed a crime;

(B) violated a statute defining an infraction;

(C) violated an ordinance of a municipal corporation; or

(D) committed a delinquent act.

(2) **The defendant** is required to pay:

(A) court costs, including fees;

(B) a fine; or

(C) a civil penalty.

(3) **The defendant** is not determined by the court imposing the court costs, fine, or civil penalty to be indigent. ~~and~~

(4) **The defendant** fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:

(A) The end of the business day on which the court enters the conviction or judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the court.

(b) A court may adopt a local rule to impose a late payment fee under this section on defendants described in subsection (a).

(c) Subject to subsection (d), the clerk of a court that adopts a local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars ($25) from a defendant described in subsection (a).

(d) Notwithstanding ~~[IC 33-19-2-2,]~~ a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.

(e) A plaintiff or defendant in an action under ~~IC 33-11.6~~ **????** shall pay a late fee of twenty-five dollars ($25) if the plaintiff or defendant:

(1) is required to pay court fees or costs under ~~IC 33-11.6-4-15;~~ **????;**

(2) is not determined by the court imposing the court costs to be indigent; and

(3) fails to pay the costs in full before the later of the following:

(A) The end of the business day on which the court enters the judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs under rules adopted for the operation of the court.

A court may suspend a late payment fee if the court finds that the plaintiff or defendant has demonstrated good cause for failure to make timely payment of the fee.

SECTION 1385. IC 33-19-6-21, AS ADDED BY P.L.280-2001, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-21] Sec. 23. (a) This section applies to criminal actions.

(b) The court shall assess a sexual assault victims assistance fee of at least two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000) against an individual convicted in Indiana of any of the following offenses: ~~after June 30, 2001.~~

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual battery (IC 35-42-4-8).

(9) Sexual misconduct with a minor as a Class A or Class B felony (IC 35-42-4-9).

(10) Incest (IC 35-46-1-3).

SECTION 1386. IC 33-19-6-22, AS ADDED BY P.L.168-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6-22] Sec. 24. (a) This section applies to a proceeding in a drug court under IC 12-23-14.5.

(b) The clerk shall collect a drug court fee if payment of the fee is ordered by a drug court under IC 12-23-14.5-12.

Chapter 6. Credit Card Service Fee

[QUERY: Conflict problems in this chapter.]

SECTION 1387. IC 33-19-6.5-1, AS ADDED BY P.L.277-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6.5-1] Sec. 1. This chapter applies to any

transaction in which:

(1) the clerk is required to collect money from a person, including:

(A) bail;

(B) a fine;

(C) a civil penalty;

(D) a court fee, court cost, or user fee imposed by the court; or

(E) a fee for the preparation, duplication, or transmission of a document; and

(2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.

SECTION 1388. IC 33-19-6.5-1, AS ADDED BY P.L.173-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6.5-1] Sec. 1. This chapter applies to any transaction in which:

(1) the clerk is required to collect money from a person, including:

(A) bail;

(B) a fine;

(C) a civil penalty;

(D) a court fee or court cost; or

(E) a fee for the preparation, duplication, or transmission of a document; and

(2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.

SECTION 1389. IC 33-19-6.5-2, AS ADDED BY P.L.173-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6.5-2] Sec. 2. A payment made under this chapter does not finally discharge the person's liability and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit. The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a fee from the person using the bank or credit card. The fee is a permitted additional charge to the money the clerk is required to collect under section [1(1)] of this chapter.

SECTION 1390. IC 33-19-6.5-2, AS ADDED BY P.L.277-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6.5-2] Sec. 2. A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit. The clerk may contract with a bank or credit card vendor for acceptance of bank

or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk may collect a credit card service fee from the person using the bank or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section [1(1)] of this chapter.

SECTION 1391. IC 33-19-6.5-3, AS ADDED BY P.L.173-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6.5-3] Sec. 3. **(a)** The clerk shall forward credit card service fees collected under this chapter to the county auditor or city or town fiscal officer in accordance with [IC 33-19-1-3(a).]

(b) ~~These~~ Funds **described in subsection (a)** may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 1392. IC 33-19-6.5-3, AS ADDED BY P.L.277-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-6.5-3]: Sec. 3. **(a)** The clerk shall forward credit card service fees collected under section [2] of this chapter to the county auditor or city or town fiscal officer in accordance with IC 33-19-1-3(a).

(b) ~~These~~ Funds **described in subsection (a)** may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

Chapter 7. Distribution of Court Fees

SECTION 1393. IC 33-19-7-1, AS AMENDED BY P.L.39-2002, SEC. 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-1] Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) ~~IC 33-19-5-1(a)~~ **????** (criminal costs fees).

(2) ~~IC 33-19-5-2(a)~~ **????** (infraction or ordinance violation costs fees).

(3) ~~IC 33-19-5-3(a)~~ **????** (juvenile costs fees).

(4) ~~IC 33-19-5-4(a)~~ **????** (civil costs fees).

(5) ~~IC 33-19-5-5(a)~~ **????** (small claims costs fees).

(6) ~~IC 33-19-5-6(a)~~ **????** (probate costs fees).

(7) ~~IC 33-19-6-16.2~~ **????**(deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established ~~under~~ **by** ~~IC 33-19-9-2~~ **????** the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under ~~IC 33-19-5-1(b)(5).~~ **????**.

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under ~~IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).~~ **????**.

(3) Fifty percent (50%) of the child abuse prevention fees collected under ~~IC 33-19-5-1(b)(7).~~ **????**.

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under ~~IC 33-19-5-1(b)(8).~~ **????**.

(5) One hundred percent (100%) of the highway work zone fees collected under ~~IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).~~ **????**.

(6) One hundred percent (100%) of the safe schools fee collected under ~~IC 33-19-6-16.3.~~ **????**.

(7) One hundred percent (100%) of the automated record keeping fee ~~(IC 33-19-6-19).~~ **????**.

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under ~~IC 33-19-5-1(b)(5).~~ **????**.

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under ~~IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).~~ **????**.

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under ~~IC 33-19-5-1(b)(8).~~ **IC 33-19-5-1(b)(7) ????** The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under ~~IC 33-19-6-20.~~ **????**. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under ~~IC 33-19-6-1.5~~ **????** and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance ~~under~~ **described in** subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund

established ~~under~~ **by** IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under ~~IC 33-19-6-21.~~ **????**.

(g) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under ~~IC 33-19-6-5.~~ **????**.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under ~~IC 33-19-6-5~~ **????** that is reimbursable to the county at the federal financial participation rate.

The county clerk shall monthly distribute to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under ~~IC 33-19-6-5~~ **????** that is not reimbursable to the county at the applicable federal financial participation rate.

(h) This section expires July 1, 2005.

SECTION 1394. IC 33-19-7-1, AS AMENDED BY P.L.167-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-1] Sec. 2. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).

(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).

(3) [IC 33-19-5-3(a)] (juvenile costs fees).

(4) [IC 33-19-5-4(a)] (civil costs fees).

(5) [IC 33-19-5-5(a)(1)] (small claims costs fees).

(6) [IC 33-19-5-6(a)] (probate costs fees).

(7) [IC 33-19-6-16.2] (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established ~~under~~ **by** IC 33-19-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under [IC 33-19-5-1(b)(5).]

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under [IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).]

(3) Fifty percent (50%) of the child abuse prevention fees collected under [IC 33-19-5-1(b)(7).]

(4) One hundred percent (100%) of the domestic violence

prevention and treatment fees collected under [IC 33-19-5-1(b)(8).]

(5) One hundred percent (100%) of the highway work zone fees collected under [IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).]

(6) One hundred percent (100%) of the safe schools fee collected under [IC 33-19-6-16.3.]

(7) One hundred percent (100%) of the automated record keeping fee [(IC 33-19-6-19).]

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under [IC 33-19-5-1(b)(5).]

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under [IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).]

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under ~~IC 33-19-5-1(b)(8).~~ **IC 33-19-5-1(b)(7). [CHILD ABUSE PREVENTION FEES IS SUBDIVISION (7).]**The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under [IC 33-19-6-1.5] and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance ~~under~~ **described in** subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established ~~under~~ **by** IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under [IC 33-19-6-21.]

(g) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in

the Indiana support enforcement tracking system (ISETS) collected under IC 33-19-6-5.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under [IC 33-19-6-5] that is reimbursable to the county at the federal financial participation rate.

The county clerk shall monthly distribute to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under [IC 33-19-6-5] that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the small claims service fee under [IC 33-19-5-5(a)(2)] for deposit in the county general fund.

(i) This section applies after June 30, 2005.

SECTION 1395. IC 33-19-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-2] Sec. 3. **(a)** The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with [IC 33-19-1-3(a).] The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).

(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).

(3) [IC 33-19-5-3(a)] (juvenile costs fees).

(4) [IC 33-19-5-4(a)] (civil costs fees).

(5) [IC 33-19-5-5(a)] (small claims costs fees).

(6) [IC 33-19-5-6(a)] (probate costs fees).

(7) [IC 33-19-6-16.2] (deferred prosecution fees).

(b) This section expires July 1, 2005.

SECTION 1396. IC 33-19-7-2, AS AMENDED BY P.L.167-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-2] Sec. 4. **(a)** The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with [IC 33-19-1-3(a).] The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).

(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).

(3) [IC 33-19-5-3(a)] (juvenile costs fees).

(4) [IC 33-19-5-4(a)] (civil costs fees).

(5) [IC 33-19-5-5(a)(1)] (small claims costs fees).

(6) [IC 33-19-5-6(a)] (probate costs fees).

(7) [IC 33-19-6-16.2] (deferred prosecution fees).

(b) This section applies after June 30, 2005.

SECTION 1397. IC 33-19-7-3, AS AMENDED BY P.L.98-2000, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-3] Sec. 5. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of **the city's or town's** ordinance violations in a circuit, superior, or county court located in the county is three percent (3%) of the amount of fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).

(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).

(3) [IC 33-19-5-3(a)] (juvenile costs fees).

(4) [IC 33-19-5-4(a)] (civil costs fees).

(5) [IC 33-19-5-5(a)] (small claims costs fees).

(6) [IC 33-19-5-6(a)] (probate costs fees).

(7) [IC 33-19-6-16.2] (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.

STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.

STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.

STEP FOUR: Multiply the result determined under STEP THREE for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall semiannually distribute to each city and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

(d) This section expires July 1, 2005.

SECTION 1398. IC 33-19-7-3, AS AMENDED BY P.L.167-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-3] Sec. 6. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of **the city's or town's** ordinance violations in a circuit, superior, or county court located in the county is three percent (3%) of the amount of fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).

(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).

(3) [IC 33-19-5-3(a)] (juvenile costs fees).

(4) [IC 33-19-5-4(a)] (civil costs fees).

(5) [IC 33-19-5-5(a)(1)] (small claims costs fees).
(6) [IC 33-19-5-6(a)] (probate costs fees).
(7) [IC 33-19-6-16.2] (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.

STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.

STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.

STEP FOUR: Multiply the result determined under STEP THREE for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall semiannually distribute to each city and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

(d) This section applies after June 30, 2005.

SECTION 1399. IC 33-19-7-4, AS AMENDED BY P.L.1-2002, SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-4] Sec. 7. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).
(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).
(3) [IC 33-19-5-4(a)] (civil costs fees).
(4) [IC 33-19-5-5] (small claims costs fees).
(5) [IC 33-19-6-16.2] (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).
(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).
(3) [IC 33-19-5-4(a)] (civil costs fees).
(4) [IC 33-19-5-5] (small claims costs fees).
(5) [IC 33-19-6-16.2] (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).
(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).

(3) [IC 33-19-5-4(a)] (civil costs fees).
(4) [IC 33-19-5-5] (small claims costs fees).
(5) [IC 33-19-6-16.2] (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established ~~under~~ **by** [IC 33-19-9] the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under [IC 33-19-5-1(b)(5).]
(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under [IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).]
(3) One hundred percent (100%) of the highway work zone fees collected under [IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).]
(4) One hundred percent (100%) of the safe schools fee collected under [IC 33-19-6-16.3.]
(5) One hundred percent (100%) of the automated record keeping fee [(IC 33-19-6-19).]

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under [IC 33-19-5-1(b)(5).]
(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under [IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).]

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under [IC 33-19-6-20.] The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) This section expires July 1, 2005.

SECTION 1400. IC 33-19-7-4, AS AMENDED BY P.L.167-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-4] Sec. 8. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).
(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).

(3) [IC 33-19-5-4(a)] (civil costs fees).
(4) [IC 33-19-5-5(a)(1)] (small claims costs fees).
(5) [IC 33-19-6-16.2] (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).
(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).
(3) [IC 33-19-5-4(a)] (civil costs fees).
(4) [IC 33-19-5-5(a)(1)] (small claims costs fees).
(5) [IC 33-19-6-16.2] (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) [IC 33-19-5-1(a)] (criminal costs fees).
(2) [IC 33-19-5-2(a)] (infraction or ordinance violation costs fees).
(3) [IC 33-19-5-4(a)] (civil costs fees).
(4) [IC 33-19-5-5(a)(1)] (small claims costs fees).
(5) [IC 33-19-6-16.2] (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established ~~under~~ **by** [IC 33-19-9] the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under [IC 33-19-5-1(b)(5).]
(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under [IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).]
(3) One hundred percent (100%) of the highway work zone fees collected under [IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).]
(4) One hundred percent (100%) of the safe schools fee collected under [IC 33-19-6-16.3.]
(5) One hundred percent (100%) of the automated record keeping fee [(IC 33-19-6-19).]

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under [IC 33-19-5-1(b)(5).]
(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under [IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).]

The county auditor shall deposit fees distributed by a clerk under this

subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under [IC 33-19-6-20.] The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) This section applies after June 30, 2005.

SECTION 1401. IC 33-19-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-5] Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state six million seven hundred four thousand two hundred fifty-seven dollars ($6,704,257) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established ~~under~~ **by** IC 12-18-5-2 an amount equal to eleven and eight-hundredths percent (11.08%);

(2) the Indiana judges' retirement fund ~~established under~~ **created by** [IC 33-13-8] an amount equal to twenty-five and twenty-one hundredths percent (25.21%);

(3) the law enforcement academy building fund ~~established under~~ **created by** IC 5-2-1-13 an amount equal to three and fifty-two hundredths percent (3.52%);

(4) the law enforcement training fund ~~established under~~ **created by** IC 5-2-1-13 an amount equal to fourteen and nineteen-hundredths percent (14.19%);

(5) the violent crime victims compensation fund established ~~under~~ **by** IC 5-2-6.1-40 an amount equal to sixteen and fifty-hundredths percent (16.50%);

(6) the motor vehicle highway account an amount equal to twenty-six and ninety-five hundredths percent (26.95%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to thirty-two hundredths of one percent (0.32%); and

(8) the Indiana judicial center drug and alcohol programs fund established ~~under~~ **by** IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and twenty-three hundredths percent (2.23%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year the auditor of state shall transfer to the treasurer of state one million two hundred thousand

dollars ($1,200,000) for deposit into the public defense fund established ~~under~~ **by** [IC 33-9-14.]

SECTION 1402. IC 33-19-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-6] Sec. 10. **(a)** In a county having a judicial circuit in which either IC 31-12-1 or IC 31-12-2 applies, the county fiscal body shall annually appropriate an amount necessary to carry out the administration and the purposes of the programs established under these chapters.

(b) Requests for funding under this section must be submitted under IC 36-2-5-4 or IC 36-3-6-4.

SECTION 1403. IC 33-19-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-7-7] Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) **For each service of a writ, order, process, notice, tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.**

(c) From the county share distributed under section 2 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate twelve dollars ($12) for each verified claim ~~presented~~ **submitted** by the sheriff ~~to the fiscal body~~ under subsection ~~(c).~~ **(b).** Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

~~(c) For each service of a writ, order, process, notice, tax warrant, or other paper completed by the sheriff, the sheriff shall submit to the county fiscal body a verified claim of service.~~

SECTION 1404. IC 33-19-1-3, AS AMENDED BY P.L.39-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-1-3] Sec. 12. (a) Except:

(1) for the state share prescribed by [IC 33-19-7-1] for semiannual distribution; and

(2) as provided under [IC 33-17-1-4(e), IC 33-19-7-1(g), and IC 33-19-6-1.5;]

~~within~~ **not later than** thirty (30) days after the clerk collects a fee, the clerk shall forward the fee to ~~(1)~~ the county auditor if the clerk is a clerk of a circuit court, ~~or~~ **and to** ~~(2)~~ the city or town fiscal officer if the clerk is the clerk of a city or town court.

(b) If part of the fee is collected on behalf of another person for service as a juror or witness, the county auditor or city or town fiscal officer shall forward that part of the fee to the person ~~within~~ **not later than** forty-five (45) days after the auditor or fiscal officer receives the claim for the fee.

(c) Except for amounts deposited in a user fee fund established under [IC 33-19-8,]he county auditor shall distribute fees received

from the clerk to **the following:**

(1) The county treasurer for deposit in the county general fund, if the fee belongs to the county. ~~and~~

(2) The fiscal officer of a city or town, if the fee belongs to the city or town under [IC 33-19-7-3.]

(d) Except for amounts deposited in a user fee fund established under [IC 33-19-8,]the city or town fiscal officer shall deposit all fees received from a clerk in the **city's or town's** treasury. ~~of the city or town.~~

(e) The clerk shall forward the state share of each fee to the state treasury at the clerk's semiannual settlement for state revenue.

Chapter 8. Local User Fee Funds

SECTION 1405. IC 33-19-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-8-1] Sec. 1. As used in this chapter, "city or town fund" refers to the city or town user fee fund established under section 3 of this chapter.

SECTION 1406. IC 33-19-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-8-2] Sec. 2. As used in this chapter, "county fund" refers to the county user fee fund established under section 5 of this chapter.

SECTION 1407. IC 33-19-8-3, AS AMENDED BY P.L.168-2002, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-8-3] Sec. 3. (a) A city or town user fee fund is established in each city or town having a city or town court for the purpose of supplementing the cost of various program services. The city or town fund ~~shall be~~ **is** administered by the fiscal officer of the city or town.

(b) The city or town fund consists of the following fees collected by a clerk under this article:

(1) The pretrial diversion program fee.

(2) The alcohol and drug services fee.

(3) The law enforcement continuing education program fee.

(4) The deferral program fee.

(5) The drug court fee.

SECTION 1408. IC 33-19-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-8-4] Sec. 4. Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 3(b) of this chapter, the fiscal body of the city or town shall appropriate from the city or town fund to ~~that~~ **the** program the amount collected for the program fee under [IC 33-19-6.]

SECTION 1409. IC 33-19-8-5, AS AMENDED BY P.L.168-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-8-5] Sec. 5. (a) A county user fee fund is established in each county ~~for the purpose of financing~~ **to finance** various program services. The county fund ~~shall be~~ **is** administered by

the county auditor.

(b) The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under IC 31-34-8-8 or IC 31-37-9-9:

(1) The pretrial diversion program fee.

(2) The informal adjustment program fee.

(3) The marijuana eradication program fee.

(4) The alcohol and drug services program fee.

(5) The law enforcement continuing education program fee.

(6) The deferral program fee.

(7) The jury fee.

(8) The drug court fee.

(c) All of the jury fee and two dollars ($2) of ~~every~~ **a** deferral program fee collected under [IC 33-19-5-2(e)] ~~shall~~ **must** be deposited by the county auditor in the jury pay fund **established** under [IC 33-19-10.]

SECTION 1410. IC 33-19-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-8-6] Sec. 6. Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in [section 5(b)] of this chapter, the county fiscal body shall appropriate from the county fund to ~~that~~ **the** program or fund the amount collected for the program under [IC 33-19-6.]

SECTION 1411. IC 33-19-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-8-7] Sec. 7. (a) This section applies when a county auditor has established a pretrial diversion program fund to receive funds initially deposited in the county ~~user fee~~ fund from the collection of the pretrial diversion program fee. Whenever a prosecuting attorney:

(1) certifies to the county fiscal body that the amount in the pretrial diversion program fund exceeds the amount needed to finance the pretrial diversion program services during the calendar year; and

(2) states the amount of the excess funds in the certification;

the fiscal body may adopt an ordinance to appropriate the excess funds from the pretrial diversion program fund to the office of the prosecuting attorney.

(b) ~~The~~ Funds appropriated ~~under~~ **as described in** subsection (a) may be used by the office of the prosecuting attorney for any purpose specified in the appropriation ordinance adopted by the fiscal body.

(c) A county fiscal body may not transfer funds previously appropriated to the office of the prosecuting attorney as a result of an appropriation ~~under~~ **described in** subsection (a).

SECTION 1412. IC 33-19-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-8-8] Sec. 8. (a) This section applies to jury fees collected under [IC 33-19-6-17.]

(b) ~~Whenever~~ **If** a clerk certifies to ~~the~~ **a** county fiscal body the amount of fees collected, the county fiscal body shall direct the county auditor to transfer the amount certified to the jury pay fund established ~~by~~ **under [**IC 33-19-10.]

Chapter 9. State User Fee Funds

SECTION 1413. IC 33-19-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-9-1] Sec. 1. As used in this chapter, "state fund" refers to the state user fee fund established ~~under~~ **by** [section 2] of this chapter.

SECTION 1414. IC 33-19-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-9-2] Sec. 2. The state user fee fund is established. The state fund ~~shall be~~ **is** administered by the treasurer of state.

SECTION 1415. IC 33-19-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-9-3] Sec. 3. On June 30 and December 31 each year, the auditor of state shall transfer to the treasurer of state **for deposit in the state fund [SEE IC 33-19-9-4 BELOW]** the fees distributed to the auditor of state under [IC 33-19-7-1(b) and IC 33-19-7-4(d).]

SECTION 1416. IC 33-19-9-4, AS AMENDED BY P.L.2-2003, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-9-4] Sec. 4. (a) The treasurer of state shall semiannually distribute one million two hundred eighty-eight thousand dollars ($1,288,000) of the amounts transferred to the state fund under [section 3] of this chapter as follows:

(1) Fourteen and ninety-eight hundredths percent (14.98%) ~~shall~~ **must** be deposited into the alcohol and drug countermeasures fund established ~~under~~ **by** IC 9-27-2-11.

(2) Eight and forty-two hundredths percent (8.42%) ~~shall~~ **must** be deposited into the drug interdiction fund established ~~under~~ **by** ~~IC 10-11-7.~~ **IC 10-11-7-1.**

(3) Four and sixty-eight hundredths percent (4.68%) ~~shall~~ **must** be deposited into the drug prosecution fund established ~~under~~ **by** [IC 33-14-8-5.]

(4) Five and sixty-two hundredths percent (5.62%) ~~shall~~ **must** be deposited into the corrections drug abuse fund established ~~under~~ **by** IC 11-8-2-11.

(5) Twenty-two and forty-seven hundredths percent (22.47%) ~~shall~~ **must** be deposited into the state drug free communities fund established by IC 5-2-10-2.

(6) Seven and ninety-eight hundredths percent (7.98%) ~~shall~~ **must** be distributed to the Indiana department of transportation for use under IC 8-23-2-15.

(7) Twenty and thirty-two hundredths percent (20.32%) ~~shall~~

must be deposited in the family violence and victim assistance fund established by IC 12-18-5-2.

(8) Fifteen and fifty-three hundredths percent (15.53%) ~~shall~~ **must** be deposited in the Indiana safe schools fund established by IC 5-2-10.1.

(b) The treasurer of state shall semiannually distribute the amount remaining after the distributions ~~in~~ **are made under** subsection (a) to the judicial technology and automation project fund established by IC 33-2.1-7-10.

Chapter 10. Juror and Witness Fees

SECTION 1417. IC 33-19-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-1-4] Sec. 1. (a) ~~Jurors~~ **A juror** of **a** circuit, superior, county, **or** probate ~~and municipal courts and members~~ **court or a member** of a grand jury ~~are~~ **is** entitled to fees equal to **the sum of the following:**

(1) **An amount for mileage at** the mileage rate paid to state officers **and employees** for each mile necessarily traveled to and from the court. ~~and~~

(2) Payment at the rate of:

(A) fifteen dollars ($15) for each day the juror is in actual attendance in court until the jury is impaneled; and

(B) forty dollars ($40) for each day the juror is in actual attendance after impaneling and until the jury is discharged.

(b) A county fiscal body may adopt an ordinance to pay from county funds a supplemental fee in addition to the fees prescribed by subsection (a)(2).

(c) ~~Jurors~~ **A juror** of **a** city ~~and~~ **or** town ~~courts are~~ **court is** entitled to **fees equal to the sum of the following:**

(1) An amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

~~(1)~~ **(2)** Fifteen dollars ($15) per day while **the juror is** in actual attendance. ~~and~~

~~(2) receive a sum for mileage equal to that sum per mile paid to state officers and employees for each mile necessarily traveled to and from the court.~~

(d) A city or town fiscal body may adopt an ordinance to pay from city or town funds a supplemental fee in addition to the fee prescribed by ~~subsection (c)(1).~~ **subsection (c)(2).**

(e) **For purposes of this section,** a prospective juror who is summoned for jury duty and who reports to the summoning court on the day specified in the summons is in actual attendance on that day. ~~for the purposes of this section.~~

SECTION 1418. IC 33-19-1-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-1-5] Sec. 2. **(a)** A witness in a criminal action may receive a fee **if the witness:**

(1) was summoned by the state;

(2) was named on the indictment or information; and

(3) testified under oath to a material fact in aid of the prosecution.

(b) A fee paid under subsection (a) is equal to the sum of the following:

(1) ~~equal to~~ **An amount for mileage at** the mileage **rate** paid to state officers for each mile required to travel to and from the court. ~~and~~

(2) For each day of attendance in court equal to:

(A) fifteen dollars ($15) for witnesses subpoenaed under IC 35-37-5-4; or

(B) five dollars ($5) for all other witnesses.

~~if the witness was summoned by the state, was named on the indictment or information, and testified under oath to a material fact in aid of the prosecution.~~

SECTION 1419. IC 33-19-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-1-6] Sec. 3. A witness in an action listed in [IC 33-19-5-2, ~~through~~ **IC 33-19-5-3, IC 33-19-5-4, IC 33-19-5-5, and** IC 33-19-5-6] is entitled to a fee **equal to the sum of the following:**

(1) ~~equal to~~ **An amount for mileage at** the mileage **rate** paid to state officers for each mile required to travel to and from the court. ~~and~~

(2) Five dollars ($5) for each day of attendance in court.

SECTION 1420. IC 33-19-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-1-7] Sec. 4. (a) The clerk shall note witness and juror fees when ~~they~~ **the fees** are claimed and forward the claims to the county auditor or city or town fiscal officer.

(b) The clerk is not entitled to a fee for providing an affidavit or other proof of attendance to a juror or witness.

(c) The county auditor or city or town fiscal officer shall disburse juror or witness fees claimed under this section as provided in [section 3(b)] of this chapter.

Chapter 11. Jury Pay Fund

SECTION 1421. IC 33-19-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-10-1] Sec. 1. As used in this chapter, "jury pay fund" refers to the jury pay fund established ~~by~~ **under** section 2 of this chapter.

SECTION 1422. IC 33-19-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-10-2] Sec. 2. (a) A jury pay fund is established for each county for the purpose of

supplementing the cost of paying jury fees. The jury pay fund ~~shall be~~ **is** administered by the county auditor.

(b) The jury pay fund consists of amounts deposited by the county auditor under [IC 33-19-8-5(c)] and the fees collected under [IC 33-19-6-17] from defendants who:

(1) committed a crime;

(2) violated a statute defining an infraction; or

(3) violated an ordinance of a municipal corporation.

SECTION 1423. IC 33-19-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-19-10-3] Sec. 3. Upon receipt of monthly claims submitted on oath to the county fiscal body by a clerk serving the county, the county fiscal body shall appropriate from the jury pay fund to the court served by the clerk an amount to supplement the cost of jury fees.

SECTION 1424. IC 33-38 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 38. JUDGES

Chapter 1. Certain Judgeship's Eligibility; Term of Office; Travel Expenses

SECTION 1425. IC 33-13-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9-1] Sec. 1. A person is not eligible to hold the office of judge of any probate or superior court unless, in addition to other prerequisites to eligibility provided by ~~the laws of this state,~~ **Indiana law,** the person is admitted to the practice of law in Indiana.

SECTION 1426. IC 33-13-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-3-1] Sec. 2. ~~There shall be paid to the~~ **Each** judge of each:

(1) judicial circuit containing more than one (1) county; ~~to the judge of each~~

(2) county court serving more than one (1) county; and ~~to the judge of each~~

(3) superior court district containing more than one (1) county;

shall be paid two thousand dollars ($2,000) per ~~annum,~~ **year** to reimburse ~~such~~ **the** judge for traveling and other necessary expenses. ~~and~~ Two thousand dollars ($2,000) for each ~~such~~ judge is appropriated annually out of any money in the general fund of the state treasury not otherwise appropriated.

SECTION 1427. IC 33-13-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-5-1] Sec. 3. The term of office of ~~every~~ **a** person:

(1) elected judge of the court of appeals or of any circuit, superior, probate, criminal, or juvenile court: ~~shall begin~~ **begins** on the first

day of January ~~next succeeding~~ **after** the person's election; ~~The term of office of all persons who have been~~ **and**

(2) elected or appointed to any such judgeship shall expire on December 31 ~~next succeeding~~ **after** the election of ~~their~~ **the** respective successors.

Chapter 2. Appointment of Bailiffs in Certain Counties

SECTION 1428. IC 33-13-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-4-1 part] Sec. 1. The judge of the circuit, superior, criminal, probate, and juvenile courts in each county ~~in the state of Indiana~~ having a population of **at least** thirty-five thousand (35,000) ~~or more, according to the last preceding United States census,~~ shall appoint a bailiff and may appoint a riding bailiff for ~~his~~ **the judge's** court, whose per diem shall be fixed by the court to be paid out of the county treasury.

[33-13-4-1 part] Sec. 2. In counties having a population of less than thirty-five thousand (35,000), ~~according to the last preceding United States census,~~ the judge of the circuit court may appoint a bailiff. ~~but~~ **However,** if ~~no~~ **a** bailiff ~~be~~ **is not** appointed, the sheriff of the county shall perform the duties of the bailiff.

Chapter 3. Copy of Appointment of City or Municipal Judge to Clerk of Circuit Court

SECTION 1429. IC 33-13-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-7-1 part] Sec. 1. ~~Whenever under the laws of this state, any~~ **When a** person is appointed ~~by the proper authority~~ as judge of a city or municipal court, a certified copy of ~~such~~ **the** appointment shall be sent by the appointing authority to the clerk of the circuit court of the county ~~wherein said~~ **where the** city is located. ~~Said~~

[33-13-7-1 part] **Sec. 2. The** appointment **described in section 1 of this chapter** shall be ~~duly~~ recorded ~~upon~~ **in** the order book of the circuit court, and ~~such~~ **the** record ~~shall authorize~~ **authorizes** the clerk to certify that ~~such~~ **the** judge is the: ~~duly~~

(1) appointed;

(2) qualified; and

(3) acting;

judge of the city or municipal court for which ~~he~~ **the judge** was appointed.

Chapter 4. Chief Clerk in Marion and Lake Counties

SECTION 1430. IC 33-13-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-6-1 part] Sec. 1. The judge of the circuit court in a county having a population of four hundred thousand (400,000) or more may appoint **a chief clerk** ~~in his~~ **for the** court. ~~a chief clerk, whose~~

[33-13-6-1 part] Sec. 2. **The** salary **for the chief clerk:**

(1) shall be fixed by the judge of ~~said~~ **the** court; ~~which salary shall~~

(2) may not be ~~in excess of forty-eight hundred dollars~~ **more than four thousand eight hundred dollars** ($4,800) per ~~annum, the same to~~ **year; and**

(3) shall be paid in monthly installments out of the county treasury of the county in which ~~any such~~ **the** court is ~~situated.~~ **located.**

[33-13-6-1 part] Sec. 3. The chief clerk ~~shall have the power to~~ **may** administer oaths that ~~may be found~~ **are** convenient or necessary to be administered in the discharge of ~~his~~ **the clerk's** duties, for which **there is** no charge ~~shall be made~~ or expense incurred. ~~Said~~

[33-13-6-1 part] Sec. 4. **The** chief clerk ~~shall~~ **must** be:

(1) a graduate of an approved law school; and ~~shall be duly~~

(2) admitted to the practice of law in ~~the state of~~ Indiana.

[33-13-6-1 part] Sec. 5. The county council of ~~any such~~ **the** county shall appropriate ~~such sums of~~ **the** money ~~as may be~~ requested by the presiding judge of the circuit court for payment of the salary of ~~such~~ **the** chief clerk, not exceeding the maximum amount of ~~the~~ salary provided ~~in~~ **for by** this section.

Chapter 5. Salaries

SECTION 1431. IC 33-13-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-12-2] Sec. 1. There is appropriated ~~out of~~ **from** the **state** general fund, ~~of the state,~~ not otherwise appropriated, a sufficient amount to pay the state general fund contributions ~~authorized by~~ **under** this chapter.

SECTION 1432. IC 33-13-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-12-3] Sec. 2. The county councils of the ~~several~~ counties of the state shall appropriate annually a sufficient amount to pay the county salaries ~~authorized by~~ **under** this chapter.

SECTION 1433. IC 33-13-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-12-4] Sec. 3. ~~Where~~ **(a) This section applies to** a judicial circuit **that** is composed of more than one (1) county. ~~all of~~

(b) The counties comprising ~~such~~ **a** circuit **to which this section applies are considered one (1) county** for ~~the~~ purposes of this chapter. ~~shall be considered as one (1) county; in such event,~~ Each county **in the circuit** shall pay part of the county salary in the same proportion as ~~it's~~ **the county's** individual classification factor bears to the classification factor of the judicial circuit.

SECTION 1434. IC 33-13-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-12-5] Sec. 4. For ~~the purpose~~ **purposes** of this chapter, ~~the several counties of the state of Indiana are~~ **each county is:**

(1) graded on the basis of population and gross assessed valuation; and ~~each county is~~

(2) set up on the percentage ratio it bears to the state, the whole state being considered as one hundred percent (100%).

SECTION 1435. IC 33-13-12-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-12-7.1] Sec. 5. (a) The total annual salary of each full-time judge of a circuit, superior, municipal, county, or probate court is:

(1) ninety thousand dollars ($90,000), **paid by the state;** and

(2) any additional salary provided **by the county** under IC 36-2-5-14 or IC 36-3-6-3(c). ~~The state shall pay all of the total salary except for the additional salary, if any, under IC 36-2-5-14 or IC 36-3-6-3(c).~~

The state shall deposit quarterly the money received from the counties under subsection (c) **for additional salary** in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

(c) When making each payment under subsection (a), the county shall determine for each judge whether the total of:

(1) the payment made on behalf of that judge;

(2) previous payments made on behalf of that judge in the same calendar year; and

(3) the state share of the judge's salary under subsection (a);

exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total ~~does exceed~~ **exceeds** the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

(1) is established by the state;

(2) applies to a judge who is covered by this section; and

(3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

SECTION 1436. IC 33-13-12-8.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-12-8.2] Sec. 6. Of the annual salary of a juvenile court magistrate, the county served by the magistrate shall pay forty-one thousand three hundred ninety-three dollars ($41,393). The balance of the annual salary shall be paid by the state from the state general fund.

SECTION 1437. IC 33-13-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-12-9] Sec. 7. (a) The total annual salary for each justice of the supreme court of Indiana is one hundred fifteen thousand dollars ($115,000).

(b) The total annual salary for each judge of the court of appeals of Indiana is one hundred ten thousand dollars ($110,000).

(c) The state shall pay the annual salaries prescribed in subsections (a) through (b) from the state general fund.

(d) In addition to ~~said~~ salary, ~~there~~ **the state** shall ~~be paid~~ **pay to a justice or judge,** in equal monthly payments on the first day of each month ~~out of any~~ **from** money in the **state** general fund ~~of the state treasury~~ not otherwise appropriated, the following annual subsistence allowances to assist in defraying expenses relating to or resulting from the discharge of the justice's or judge's official duties: ~~for which no accounting shall be made by such judge:~~

(1) Five thousand five hundred dollars ($5,500) to the chief justice of the supreme court.

(2) Five thousand five hundred dollars ($5,500) to the chief judge of the court of appeals.

(3) Three thousand dollars ($3,000) to each justice of the supreme court who is not the chief justice.

(4) Three thousand dollars ($3,000) to each judge of the court of appeals who is not the chief judge.

A justice or judge is not required to make an accounting for an allowance received under this subsection.

(e) The state shall not furnish automobiles for the use of justices or judges compensated under this section.

SECTION 1438. IC 33-13-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-12-11] Sec. 8. ~~Every~~ **(a) A** judge described in [section 7] of this chapter, [QUERY: That section is repealed. Should probably be current 7.1] ~~and~~ the ~~judges~~ **justices** of the supreme court, and **the judges of** the court of appeals shall:

(1) formulate;

(2) post in a prominent place; and

(3) make available to the public;

a schedule of the working hours during which the court will be open

and during which each judge **or justice** will be present. ~~Such judges~~

(b) A judge or justice shall hold the ~~courts~~ **court** open and be available ~~therein~~ **in the court** during:

(1) regular business hours; or

(2) the hours specified on the schedule, if the business of the court ~~is such that~~ **requires** evening or weekend sessions. ~~are held, then during such hours as may be specified on the schedule. Any~~

(c) A judge **or justice** may be absent from the court ~~when such absence is~~ due to official business, matters relating to the judge's **or justice's** judicial office, illness, serious personal matters, or regular vacation.

SECTION 1439. IC 33-13-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-12-12] Sec. 9. The classification of salary schedules for judges may not be lowered below the classification first fixed by the state board of accounts under this chapter.

Chapter 6. Judge's Retirement System

SECTION 1440. IC 33-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-2 part] Sec. 1. ~~The following words and phrases~~ As used in this chapter, ~~unless different meanings are plainly indicated by their context, shall have the following respective meanings:~~ "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the act.

[33-13-8-2 part] Sec. 2. **As used in this chapter,** "board" ~~means~~ **refers to** the board of trustees of the public employees' retirement fund.

[33-13-8-2 part] Sec. 3. **As used in this chapter,** "employer" means the state of Indiana.

~~"His" and "widow" means "her" and "widower" in the event the participant is a woman.~~

[33-13-8-2 part] Sec. 4. **As used in this chapter,** "fiscal year" means the period beginning on July 1, in any year, and ending on June 30 of the succeeding year.

[33-13-8-2 part] Sec. 5. **As used in this chapter,** "fund" ~~means~~ **refers to** the Indiana judges' retirement fund ~~the fund created by~~ **established by section 12 of** this chapter.

SECTION 1441. IC 33-13-8-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-3.5(a)] Sec. 6. ~~(a)~~ As used in this chapter, ~~IC 33-13-9.1 and IC 33-13-10.1~~ "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the

meaning set forth in IC 6-3-1-11.

[33-13-8-2 part] Sec. 7. **As used in this chapter,** "judge" means ~~any~~ **a** person who **serves or** has served ~~is serving, or shall serve~~ as a regular judge of ~~any~~ **one (1) or more** of the following courts:

(1) supreme court. ~~of the state of Indiana.~~

(2) court of appeals. ~~of the state of Indiana.~~

(3) Indiana tax court.

(4) Circuit court of ~~any~~ **a** judicial circuit.

(5) Superior court of ~~any~~ **a** county. ~~or counties.~~

(6) Criminal court of ~~any~~ **a** county having a separate criminal court.

(7) Probate court of ~~any~~ **a** county having a separate probate court.

(8) Juvenile court of ~~any~~ **a** county having a separate juvenile court.

(9) Municipal court of ~~any~~ **a** county.

(10) County court of ~~any~~ **a** county. ~~or counties.~~

SECTION 1442. IC 33-13-8-27, AS ADDED BY P.L.139-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-27] Sec. 8. ~~(a)~~ As used in this ~~section,~~ **chapter,** "judge pro tempore service" means service in Indiana as a full-time judge pro tempore appointed under Trial Rule 63(B) that:

(1) is not covered by ~~IC 33-13-9.1 or IC 33-13-10.1, but~~ **IC 33-38-7 or IC 33-38-8; and**

(2) is served by a person who has other service that is covered by ~~IC 33-13-9.1 or IC 33-13-10.1.~~ **IC 33-38-7 or IC 33-38-8.**

[33-13-8-2 part] Sec. 9. **As used in this chapter,** "participant" means ~~any~~ **a** judge ~~participating~~ **who participates** in the fund.

[33-13-8-2 part] Sec. 10. **As used in this chapter,** "salary" means the total salary paid to ~~any~~ **a** participant by the state ~~of Indiana~~ and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

[33-13-8-2 part] Sec. 11. **As used in this chapter,** "services" means the period beginning on the first day ~~upon which any~~ **a** person first ~~became~~ **becomes** a judge, whether ~~such~~ **the** date is ~~prior~~ **before, on,** or ~~subsequent to~~ **after** March 11, 1953, and ending on the date under consideration ~~including~~ **and includes** all intervening employment as a judge. ~~following resignation or expiration of any term of election or appointment services in any fraction of a month shall be considered as a month of service. However, no more than one (1) month shall be credited for services in any one (1) calendar month if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office, but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into said fund during all the periods served as judge, except as otherwise provided in this~~

~~chapter; whether said periods be a connected period or disconnected period; but shall not be required to pay into said fund at any time when the judge is not serving as judge or during any period of service as a senior judge under IC 33-4-8. except as otherwise provided in this chapter.~~

SECTION 1443. IC 33-13-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-2.1] ~~Sec. 2.1. "Judge", as defined in section 2 of this chapter, includes a person who has served or is serving as a regular judge of the Indiana tax court.~~

SECTION 1444. IC 33-13-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-12-8-3] Sec. 12. ~~An~~ **The** Indiana judges' retirement fund is ~~hereby created~~ **established** and ~~shall consist~~ **consists** of:

~~(a)~~ **(1)** each participant's contribution to ~~said~~ **the** fund;

~~(b) all~~ **(2)** gifts, grants, devises, and bequests in money, property, or other form ~~which may be~~ made to the fund;

~~(c) all~~ **(3)** interest on investments or on deposits of the funds; and

~~(d) any contribution or payment~~ **(4) contributions or payments** to ~~said~~ **the** fund made in ~~any~~ **the** manner provided by the general assembly, including appropriations from the **state** general fund ~~of the state~~ as provided by this chapter.

SECTION 1445. IC 33-13-8-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-3.5(b)] Sec. 13. ~~(a) As used in this chapter, IC 33-13-9.1 and IC 33-13-10.1 "Internal Revenue Code":~~

~~(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or~~

~~(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.~~

~~(b)~~ The fund ~~shall~~ **must** satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the fund. In order to meet those requirements, the fund is subject to the following provisions, notwithstanding any other provision of this chapter ~~IC 33-13-9.1, or IC 33-13-10.1.~~ **IC 33-38-7, or IC 33-38-8:**

(1) The board shall distribute the corpus and income of the fund to participants and their beneficiaries in accordance with this chapter, ~~IC 33-13-9.1, and IC 33-13-10.1.~~ **IC 33-38-7, and IC 33-38-8.**

(2) ~~No~~ **A** part of the corpus or income of the fund may **not** be used or diverted to ~~any~~ **a** purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits

any participant would otherwise receive under the fund.

(4) If the fund is terminated or if all contributions to the fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the fund is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin ~~no~~ **not** later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) The salary taken into account under this chapter, ~~IC 33-13-9.1, or IC 33-13-10.1~~ **IC 33-38-7, or IC 33-38-8** may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

SECTION 1446. IC 33-13-8-3.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-3.7] Sec. 14. The board shall administer the fund in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the act.

SECTION 1447. IC 33-13-8-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-4.1] Sec. 15. (a) Conditions for participation in the fund, contributions to the fund, withdrawal from the fund, and eligibility for and computation of benefits for participants and their survivors are governed by ~~IC 33-13-9.1 and IC 33-13-10.1.~~ **IC 33-38-7 and IC 33-38-8.**

(b) Notwithstanding any provision of this chapter, ~~IC 33-13-9.1, and IC 33-13-10.1,~~ **IC 33-38-7, or IC 33-38-8,** the fund must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A ~~member~~ **participant** on a leave of absence that qualifies for the benefits and protections

afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act but is not entitled to receive credit for service for benefit purposes.

(c) Notwithstanding any provision of this chapter, ~~IC 33-13-9.1, and IC 33-13-10.1,~~ **IC 33-38-7, and IC 33-38-8,** a participant is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

SECTION 1448. IC 33-13-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-15] Sec. 16. (a) The governor ~~is authorized to~~ **may** conduct, or cause to be conducted, a referendum ~~with respect to~~ **for** the judges who are covered by the provisions of the judges' retirement fund ~~in which referendum the question shall be submitted to such judges of~~ **to determine** whether the judges covered by ~~such~~ **the** retirement fund shall be excluded from or included in the agreement negotiated ~~pursuant to~~ **under** the provisions of Section 218 of the federal Social Security Act **(as defined in IC 5-10.1-1-9).** The referendum ~~shall~~ **must** be conducted in full compliance with all the requirements of Section 218(d) of the federal Social Security Act. The governor shall designate the board as the agency to conduct and supervise the referendum, and the expense of ~~taking such~~ **conducting the** referendum shall be paid from funds appropriated to the ~~judges' retirement~~ fund.

(b) If ~~in any such referendum, the vote of~~ the majority of the judges who are eligible to vote ~~therein~~ **in the referendum described in subsection (a)** ~~is~~ **vote** in the negative, **the board may request that** a subsequent referendum ~~shall~~ be conducted in the same manner and with the same effect ~~upon the request of the board of trustees of the judges' retirement fund.~~ **described in subsection (a).** However, ~~no such~~ **a subsequent** referendum ~~shall~~ **may not** be conducted within ~~the period of~~ one (1) year after the ~~taking of a~~ **date of the** prior referendum.

(c) ~~In the event~~ **If** a majority of the judges **who are** eligible to vote in ~~such~~ **the** referendum **described in subsection (a)** vote in the affirmative, **both:**

(1) the judges covered by ~~such~~ **the** retirement fund; and ~~those~~

(2) the judges who waived their right to be covered by the provisions of ~~such~~ **the** retirement fund;

shall be included in the agreement negotiated by the state with the Secretary of **the United States Department of** Health and Human Services ~~of the United States,~~ in the **same** manner provided in IC 5-10.1-4 for the inclusion ~~in such agreement~~ of services covered by the retirement systems specified in IC 5-10.1-4-1 **in the agreement.**

(d) ~~Every~~ **Each** judge whose services are ~~so~~ covered by Social Security ~~shall be~~ **is** required to pay ~~for~~ **during** the period of ~~such~~ **the judge's** service the ~~amounts that are required as~~ employee contributions **required** by ~~said~~ **the** agreement. The contributions shall ~~commence as of~~ **begin on** the effective date of ~~such~~ **the judge's** coverage and ~~shall be~~ **are** subject to ~~all of~~ the terms and conditions of IC 5-10.1. ~~with respect thereto.~~

(e) The **auditor of state shall pay the** employer contributions required under ~~such~~ **the** agreement ~~shall be~~ wholly ~~paid by the auditor of state~~ from funds appropriated to the ~~judges' retirement~~ fund, and **the contributions** ~~shall~~ begin ~~as of~~ **on** the effective date of the ~~applicable~~ modification ~~of the federal-state agreement by which~~ **that adds** the judges of ~~such retirement~~ **the** fund ~~are included therein.~~ **to the federal-state agreement.** The employer contributions shall be paid in the manner provided in ~~said~~ **the** agreement.

(f) The modification of the federal-state agreement to effectuate the participation of the judges in the agreement ~~shall~~ **must** be effective ~~with respect to~~ **for** services performed on a date ~~to be~~ fixed and determined by the board.

SECTION 1449. IC 33-13-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-16] Sec. 17. (a) For ~~the~~ purposes of this chapter, there ~~shall be~~ **is** appropriated for each biennium a sum of money, computed on an actuarially funded basis, as follows:

(1) From the state general fund for participants' retirement benefits, the amount determined by the board, on recommendation of an actuary, which, when added to the ~~portion~~ **part** of the fund held for benefits at the date of ~~such~~ **the** appropriation, ~~shall be~~ **is** equal to the ~~aggregate~~ **total** liability of the fund for benefits to the end of the biennium.

(2) From the earnings on the fund, for administration purposes, the amount required during the biennium, as determined by the board on the basis of experience. The amount required for administration shall be paid out as the operating expenses of other state departments are paid.

(b) The biennial appropriation provided in this section shall be credited to the board annually in equal installments in ~~the month of~~ July of each year of the biennium.

SECTION 1450. IC 33-13-8-16.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-16.1] Sec. 18. The amount appropriated under section ~~16~~ **17** of this chapter for participants' retirement benefits shall be used for retirement benefits under ~~both IC 33-13-9.1 and IC 33-13-10.1.~~ **IC 33-38-7 and IC 33-38-8.**

SECTION 1451. IC 33-13-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-17] Sec. 19. The fund ~~created under this chapter~~ shall be construed to be a trust, separate and distinct from all other entities, maintained ~~for the purpose of securing~~ **to secure** payment of benefits to the participants and their beneficiaries, as prescribed in ~~IC 33-13-9.1 and IC 33-13-10.1.~~ **IC 33-38-7 and IC 33-38-8.**

SECTION 1452. IC 33-13-8-17.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-17.2] Sec. 20. In addition to the purpose set forth in section ~~17~~ **19** of this chapter, the fund may be used for the payment of the costs of administering this chapter.

SECTION 1453. IC 33-13-8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-21] Sec. 21. **(a) When drawing a salary warrant for a participant,** the auditor of state and the county auditor ~~in drawing warrants for any items of salary of any participant,~~ shall ~~draw such warrants to participants less the employees' contributions~~ **deduct from the amount of the warrant the participant's contribution, if any,** to the fund ~~if any, to be deducted therefrom as shall be~~ **in the amount** certified in the vouchers or **an** order issued by the director. ~~and~~

(b) The auditor of state and the county auditor shall draw a warrant **to the fund** for the total ~~amount of~~ contributions ~~so~~ withheld from the participants each month. ~~to this fund~~. The warrant drawn to ~~this~~ **the** fund together with a list of participants ~~from whom withheld~~ and the amount **withheld** from each **participant** shall be transmitted immediately to the director. ~~of the board.~~

(c) The auditor of state ~~is authorized and directed to~~ **shall** draw warrants upon the ~~state~~ treasurer **of state,** payable from the ~~fund, created by this chapter,~~ **fund,** for purposes provided for in this chapter, upon the presentation of vouchers or **an** order signed by the director of the board in accordance with resolutions of the board.

SECTION 1454. IC 33-13-8-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-22] Sec. 22. The auditor of state and the county auditor ~~are hereby authorized and directed~~ in the preparation of ~~all~~ **salary** warrants ~~covering payments of salary~~ to participants ~~for employment to~~ **shall** indicate **on the payroll voucher the following information,** in addition to other things:

~~(a)~~ **(1)** The amount of ~~employee contributions~~ **the participant's contribution** to the fund ~~which are to be~~ deducted from the salary of ~~such~~ **the** participant. ~~included in each such payroll voucher.~~

~~(b)~~ **(2)** The net amount payable to ~~each such~~ **the** participant, after the deduction of ~~such~~ **the participant's** contribution.

SECTION 1455. IC 33-13-8-25 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-25] Sec. 23. (a) The board of trustees of the public employees' retirement fund shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall:

(1) determine eligibility for and make payments of benefits under ~~IC 33-13-9.1 and IC 33-13-10.1;~~ **IC 33-38-7 and IC 33-38-8;**

(2) in accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund; and

(3) provide by rule for the implementation of this chapter and ~~IC 33-13-9.1 and IC 33-13-10.1.~~ **IC 33-38-7 and IC 33-38-8.**

(c) A determination by the board may be appealed under the procedures in IC 4-21.5.

(d) The powers and duties of the director and the actuary of the board, the treasurer of state, the attorney general, and the auditor of state, with respect to the fund, are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

SECTION 1456. IC 33-13-8-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-26] Sec. 24. Notwithstanding any other provision of this chapter, [IC 33-13-9.1,] or [IC 33-13-10.1,] to the extent required by Internal Revenue Code Section 401(a)(31) **of the Internal Revenue Code**, as added by the Unemployment Compensation Amendments of 1992 (P.L. 102-318), and any amendments and regulations related to Section 401(a)(31) **of the Internal Revenue Code**, the fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

SECTION 15. IC 33-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-2 part] Sec. 25. ~~"Services" means the period beginning on the first day upon which any a person first became a judge, whether such date is prior or subsequent to March 11, 1953, and ending on the date under consideration including all intervening employment as a judge following resignation or expiration of any term of election or appointment.~~ **(a) A judge is entitled to a month of service credit for** services **performed** in any fraction of a **calendar** month. ~~shall be considered as a month of service.~~ However, ~~no~~ **a judge is not entitled to** more than one (1) month ~~shall be credited~~ **of credit** for services **performed** in ~~any one (1)~~ **a** calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term,

then retires from office, but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into ~~said~~ **the** fund during all the periods served as judge, ~~except as otherwise provided in this chapter,~~ whether ~~said~~ **the** periods ~~be a~~ **are served** ~~connected period~~ **consecutively** or ~~disconnected period,~~ **not.** ~~but~~

(c) Except as otherwise provided in this chapter, a judge ~~shall~~ **is** not ~~be~~ required to pay into ~~said~~ **the** fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under ~~IC 33-4-8. except as otherwise provided in this chapter.~~ **????.**

SECTION 1457. IC 33-13-8-27, AS ADDED BY P.L.139-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-27] Sec. 26. ~~(a) As used in this section, "judge pro tempore service" means service in Indiana as a full-time judge pro tempore appointed under Trial Rule 63(B) that:~~

~~(1) is not covered by IC 33-13-9.1 or IC 33-13-10.1; but~~

~~(2) is served by a person who has other service that is covered by IC 33-13-9.1 or IC 33-13-10.1.~~

~~(b)~~ **(a)** A participant may purchase judge pro tempore service credit if:

(1) the participant has at least one (1) year of service in the fund;

(2) before the participant retires, the participant makes contributions to the fund:

(A) that are equal to the product of the following:

(i) the participant's salary at the time the participant actually makes a contribution for the service credit;

(ii) a percentage rate, as determined by the actuary of the fund, that is based on the age of the participant at the time the participant makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of judge pro tempore service the participant intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the participant's initial membership in the fund to the date payment is made by the participant; and

(3) the fund receives verification from the applicable court that the judge pro tempore service occurred.

~~(c)~~ **(b)** A participant may not receive service credit under this section if the judge pro tempore service for which the participant requests credit also qualifies the participant for a benefit in another retirement system.

~~(d)~~ **(c)** A participant who:

(1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit from the fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the participant's contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

~~(c)~~ **(d)** The following apply to the purchase of service credit under this section:

(1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments are to be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue Code.

(3) A participant may not claim the service credit for purposes of determining eligibility or computing benefits unless the participant has made all payments required for the purchase of the service credit.

~~(f)~~ **(e)** To the extent permitted by the Internal Revenue Code and applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

~~(g)~~ **(f)** To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 1458. IC 33-4-1-75.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-4-1-75.3] Sec. 27. A

reference to the judges' retirement system under ~~IC 33-13-8 shall be deemed~~ **this chapter is considered** a reference to the judges' retirement fund under ~~IC 33-13.~~ **this article.** [QUERY: What is the purpose of this section?]

Chapter 7. 1977 Retirement, Disability, and Death System

SECTION 1459. IC 33-13-9.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-9.1-1] Sec. 1. This chapter applies only to an individual who begins service as a judge before September 1, 1985.

SECTION 1460. IC 33-13-9.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-9.1-2] ~~Sec. 2. As used in this chapter, the following terms have the meanings set forth for them in IC 33-13-8-2.~~

~~Americans with Disabilities Act~~

~~Board~~

~~Employer~~

~~Fund~~

~~Participant~~

~~Salary~~

~~Services~~

SECTION 1461. IC 33-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-2 part] Sec. 2. ~~The following words and phrases~~ As used in this chapter, ~~unless different meanings are plainly indicated by their context, shall have the following respective meanings:~~ "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

[33-13-8-2 part] Sec. 3. **As used in this chapter,** "board" ~~means~~ **refers to** the board of trustees of the public employees' retirement fund.

[33-13-8-2 part] Sec. 4. **As used in this chapter,** "employer" means the state of Indiana.

[33-13-8-2 part] Sec. 5. **As used in this chapter,** "fund" ~~means~~ **refers to** the Indiana judges' retirement fund ~~the fund created by this chapter.~~ **established by IC 33-38-6-12.**

SECTION 1462. IC 33-13-8-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-3.5] Sec. 6. ~~(a)~~ As used in this chapter, ~~IC 33-13-9.1 and IC 33-13-10.1~~ "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

[33-13-8-2 part] Sec. 7. **As used in this chapter,** "participant" means ~~any~~ **a** judge ~~participating~~ **who participates** in the fund.

[33-13-8-2 part] Sec. 8. **As used in this chapter,** "salary" means the total salary paid to ~~any~~ **a** participant by the state ~~of Indiana~~ and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

[33-13-8-2 part] Sec. 9. **As used in this chapter,** "services" means the period beginning on the first day ~~upon which any~~ **a** person first ~~became~~ **becomes** a judge, whether ~~such~~ **the** date is ~~prior~~ **before, on,** or ~~subsequent to~~ **after** March 11, 1953, and ending on the date under consideration ~~including~~ **and includes** all intervening employment as a judge. ~~following resignation or expiration of any term of election or appointment services in any fraction of a month shall be considered as a month of service. However, no more than one (1) month shall be credited for services in any one (1) calendar month if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office, but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into said fund during all the periods served as judge, except as otherwise provided in this chapter, whether said periods be a connected period or disconnected period, but shall not be required to pay into said fund at any time when the judge is not serving as judge or during any period of service as a senior judge under IC 33-4-8. except as otherwise provided in this chapter.~~

SECTION 1463. IC 33-13-9.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9.1-3] Sec. 10. (a) ~~Each~~ **A** person who completed at least eight (8) years of service as a judge ~~prior to~~ **before** July 1, 1953, may become a participant in the fund and be subject to ~~the provisions of~~ this chapter if the person qualifies for benefits under section ~~4~~ **11** of this chapter. ~~Each~~ **A** person who is a judge on July 1, 1953, shall become a participant in the fund and be subject to ~~the provisions of~~ this chapter, beginning ~~upon such date,~~ **on July 1, 1953,** unless twenty (20) days ~~prior to such date such~~ **before July 1, 1953, the** judge ~~has filed~~ **files** with the board a written notice of election not to participate in the fund.

(b) ~~Each~~ **A** person who:

(1) becomes a judge after July 1, 1953, and before September 1, 1985; and ~~who~~

(2) is ~~then~~ not a participant **in the fund;**

~~shall become~~ **becomes** a participant in the fund and ~~be~~ **is** subject to this chapter, beginning upon the date ~~such~~ **the** person becomes a judge, unless within twenty (20) days after that date ~~such~~ **the** judge ~~has filed~~ **files** with the board a written notice of election not to participate in the fund. An election filed under this subsection is irrevocable.

(c) ~~Each~~ **A** person **who** irrevocably: ~~electing~~

(1) elects not to participate **in the fund;** or ~~withdrawing~~

(2) withdraws from the fund under section ~~6~~ **13** of this chapter; is ~~thereafter~~ ineligible to participate and to receive benefits under this chapter.

(d) Participation of ~~each~~ **a** judge in the fund ~~shall continue~~ **continues** until the date upon which ~~such~~ **the** judge:

(1) becomes an annuitant;

(2) dies; or

(3) accepts a refund;

but ~~no~~ **a** person ~~shall be~~ **is not** required to pay into the fund during any period that the person is not serving as a judge, except as otherwise provided in this chapter.

(e) ~~Each~~ **A** participant is ~~deemed~~ **considered** to have made a one-time irrevocable salary reduction agreement equal to six percent (6%) of each payment of salary ~~which~~ **that a participant** would otherwise have ~~been~~ received ~~by such participant~~ for services as **a** judge. ~~which amounts shall be paid by~~

(f) The auditor of state and ~~by~~ the county auditor **shall pay** and ~~credited~~ **credit** to the fund **the amounts described in subsection (e)** as provided in ~~IC 33-13-8-21 and IC 33-13-8-22.~~ **IC 33-38-6-21 and IC 33-38-6-22.** However, no ~~such~~ amounts shall be paid on behalf of ~~any~~ **a** participant for more than twenty-two (22) years.

SECTION 1464. IC 33-13-9.1-4, AS AMENDED BY P.L.194-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9.1-4] Sec. 11. (a) Benefits provided under this section are subject to ~~IC 33-13-8-3.5~~ **IC 33-38-6-13** and section ~~9~~ **16** of this chapter.

(b) ~~Any~~ **A** participant whose employment as judge ~~by the employer~~ is terminated, regardless of cause, ~~shall be~~ **is** entitled to a retirement annuity beginning on the date specified by ~~such~~ **the** participant in a written application, ~~therefor,~~ if ~~all~~ the following conditions are met:

(1) The date ~~upon which~~ the annuity begins is not: ~~prior to~~

(A) before the date of final termination of employment ~~of such~~ by the participant; or

(B) the date thirty (30) days ~~prior to~~ **before** the receipt of ~~such~~ **the participant's written** application by the board.

(2) The participant:

(A) has attained at least ~~the age of~~ sixty-two (62) **years of age** and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving ~~any~~ **a** salary from the state for services currently performed, except for services rendered in the

capacity of judge pro tempore or senior judge.

(c) ~~The amount of the annual retirement benefit to which~~ **A** participant:

(1) who:

(A) elects to accept retirement after June 30, 1977; and ~~who~~

(B) is at least sixty-five (65) years of age; or ~~a participant~~

(2) who:

(A) elects to accept retirement after June 30, 1999; ~~and who~~

(B) is at least fifty-five (55) years of age; and

(C) meets the requirements under subsection (b)(2)(B);

is entitled **to an annual retirement benefit as calculated in subsection (d).**

(d) The annual retirement benefit for a participant who meets the requirements of subsection (c) equals the product of:

(1) the salary being paid for the office which the participant held at the time of the participant's separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE A

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service. ~~The amount of the annual retirement benefit to which~~ A participant who elects to accept retirement before July 1, 1977, is entitled **to an annual retirement benefit that** equals the average of the benefit computed under this subsection and the benefit the participant would have received under ~~IC 33-13-8~~ **IC 33-38-6** as in effect on June 30, 1977.

~~(d)~~ **(e)** If the annual retirement benefit of a participant who began service as a judge before July 1, 1977, as computed under subsection ~~(c),~~ **(d),** is less than the amount the participant would have received under ~~IC 33-13-8~~ **IC 33-38-6** as in effect on June 30, 1977, the participant is entitled to receive ~~that~~ **the** greater amount as the participant's annual retirement benefit instead of the benefit computed under subsection ~~(c)~~ **(d).**

~~(e)~~ **(f)** Except as provided in subsection (b)(2)(B) and subsection ~~(c),~~ **(d),** if a participant who elects to accept retirement after June 30, 1977, has not attained ~~age~~ sixty-five (65) years **of age**, the participant is entitled to receive a reduced annual retirement benefit which equals the benefit which would be payable if the participant were ~~age~~ sixty-five (65) **years of age** reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

(1) participants who are separated from service because of permanent disability;

(2) survivors of participants who die while in service after August 1, 1992; or

(3) survivors of participants who die while not in service but while entitled to a future benefit.

~~(f) The amount of the annual benefit to which~~ **(g)** A participant who ~~has become~~ **is** permanently disabled is entitled ~~equals~~ **to an annual benefit equal to** the product of:

(1) the salary being paid for the office which the participant held at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE B

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of

months in the partial year of service.

~~(g)~~ **(h)** The surviving spouse or surviving child or children, as designated by the participant, of any participant who has qualified before July 1, 1977, to receive the retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, shall, upon the death of such participant, be entitled to an annuity in an amount equal to the greater of:

(1) the sum of:

(A) two thousand dollars ($2,000); plus

(B) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of the participant's death, or to which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits prior to the participant's death; or

(2) the amount determined under the following table:

TABLE C

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

~~(h)~~ **(i)** If a participant who qualifies after June 30, 1977, and before July 1, 1983, to receive a retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, dies, the participant's surviving spouse or surviving child or children, as designated by the participant, is entitled to an annuity in an amount equal to the greater of:

(1) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits before death; or

(2) the amount determined under TABLE C in subsection ~~(g)(2)~~ **(h)(2).**

~~(i)~~ **(j)** If a participant:

(1) dies after June 30, 1983; and

(2) on the date of the participant's death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) was permanently disabled; or

(D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

the participant's surviving spouse or surviving child or children, as

designated by the participant, is entitled, regardless of the participant's age, to an annuity in an amount equal to the greater of the amount determined under TABLE C in subsection ~~(g)(2)~~ **(h)(2)** or fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits on the participant's date of death, with reductions as necessary under subsection ~~(e).~~ **(f).**

~~(j)~~ **(k)** Notwithstanding subsection ~~(i),~~ **(j),** if a participant:

(1) died after June 30, 1983, and before July 1, 1985; and

(2) was serving as a judge at the time of death;

the surviving spouse is entitled to the same retirement annuity as the surviving spouse of a permanently disabled participant entitled to benefits under subsection ~~(h).~~ **(i).**

~~(k)~~ **(l)** The annuity payable to a surviving child or children under subsection ~~(g),~~ (h), ~~or~~ (i), **or (j),** is subject to the following:

(1) The total monthly benefit payable to a surviving child or children is equal to the same monthly annuity that was to have been payable to the surviving spouse.

(2) If there is more than one (1) child designated by the participant, then the children are entitled to share the annuity in equal monthly amounts.

(3) Each child entitled to an annuity shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(4) Upon the cessation of payments to one (1) designated child, if there is at least one (1) other child then surviving and still entitled to payments, the remaining child or children shall share equally the annuity. If the surviving spouse of the participant is surviving upon the cessation of payments to all designated children, the surviving spouse will then receive the annuity for the remainder of the spouse's life.

(5) The annuity shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child named as a beneficiary by a participant survives the participant.

(B) No children designated by the participant are entitled to an annuity due to their age at the time of death of the participant.

(C) A designation is not made.

(6) An annuity payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 1465. IC 33-13-9.1-5, AS AMENDED BY P.L.194-1999,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9.1-5] Sec. 12. (a) Benefits provided under this section are subject to ~~IC 33-13-8-3.5.~~ **IC 33-38-6-13.**

(b) A participant ~~shall be~~ **is** considered permanently disabled if the board has received a written certificate by at least two (2) licensed and practicing physicians, appointed by the board, indicating that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and ~~that such~~

(2) the condition is likely to be permanent.

~~Such~~ **(c) The** participant shall be reexamined by at least two (2) physicians appointed by the board, periodically at such times as the board ~~shall designate~~ **designates** but at intervals ~~of~~ not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits ~~shall~~ cease to be payable as of the date of ~~such~~ **the** examination unless, on that date, the participant is:

(1) at least sixty-five (65) years of age; or ~~is~~

(2) at least fifty-five (55) years of age and meets the requirements under section [4(b)(2)(B)] of this chapter.

~~(c)~~ **(d)** To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by the initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

SECTION 1466. IC 33-13-9.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9.1-6] Sec. 13. ~~Any~~ **(a) Except as otherwise provided in this chapter, a** participant:

(1) whose employment as a judge is terminated regardless of cause; **and**

(2) who ~~shall have~~ **has** less than twelve (12) years service; ~~except as otherwise provided in this chapter,~~

~~shall be~~ **is** entitled to withdraw from the fund, beginning on the date specified by ~~such~~ **the** participant in a written application. However, the date upon which the withdrawal begins may not be ~~prior to~~ **before** the date of final termination of employment of ~~such~~ **the** participant, or the date thirty (30) days ~~prior to~~ **before** the receipt of ~~such~~ **the** application by the board.

(b) Upon the withdrawal, a participant ~~shall be~~ **is** entitled to receive out of the fund an amount equal to the total sum contributed to the fund on behalf of the participant, payable within sixty (60) days ~~from~~ **after** date of **the** withdrawal application or in ~~such~~ monthly installments as the participant may elect.

SECTION 1467. IC 33-13-9.1-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9.1-7] Sec. 14. (a) Benefits provided under this section are subject to ~~IC 33-13-8-3.5~~ **IC 33-38-6-13** and section ~~9~~ **16** of this chapter.

(b) If ~~no~~ annuities are **not** payable to the survivors of a participant who dies after July 1, 1983, ~~then~~ the **surviving** spouse or child of the participant, **if any,** as determined by the participant, ~~if any surviving,~~ and if none survive, then any dependent or dependents surviving, shall draw from the fund the amount that the participant paid into the fund plus interest as determined by the board. If no spouse, child, or other dependents survive, then the amount plus interest minus any payments made to the participant shall be paid to the executor or administrator of the participant's estate.

(c) The amount owed a spouse, child, or other dependent, or estate under ~~subsection (a)~~ **this section** is payable within sixty (60) days ~~from~~ **after** date of **the** withdrawal application or in ~~such~~ **the** monthly installments as the recipient may elect.

SECTION 1468. IC 33-13-9.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9.1-8] Sec. 15. (a) Benefits provided under this section are subject to ~~IC 33-13-8-3.5~~ **IC 33-38-6-13** and section ~~9~~ **16** of this chapter.

(b) If a participant's spouse does not survive ~~him~~ **the participant,** and ~~there is no~~ **a** child **is not** designated and entitled to receive an annuity under section ~~4~~ **11** of this chapter, any surviving dependent child of a participant is, upon the death of the participant, entitled to an annuity in an amount equal to the annuity the participant's spouse would have received under section ~~4~~ **11** of this chapter.

(c) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, then that dependent child is entitled to receive an annuity in an amount equal to the annuity the spouse was receiving or would have received under section ~~4~~ **11** of this chapter.

(d) If there is more than one (1) dependent child, ~~then~~ the dependent children are entitled to share the annuity equally.

(e) Each dependent child is entitled to receive that child's share until the child reaches the age of eighteen (18) years or during the entire period of the child's physical or mental disability, whichever period is longer.

SECTION 1469. IC 33-13-9.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9.1-9] Sec. 16. Notwithstanding any other provision of this chapter, and solely for the purposes of the benefits provided under this chapter, the benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of the Internal Revenue Code, as amended by the Technical and

Miscellaneous Revenue Act of 1988 **(P.L.100-647).** This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code (other than Section 415(b)(2)(G)) applied without regard to Section 415(b)(2)(F) to anyone who did not first become a participant before January 1, 1990.

SECTION 15. IC 33-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-2 part] Sec. 17. ~~"Services" means the period beginning on the first day upon which any person first became a judge, whether such date is prior or subsequent to March 11, 1953, and ending on the date under consideration including all intervening employment as a judge following resignation or expiration of any term of election or appointment.~~ **(a) A judge is entitled to a month of service credit for** services **performed** in any fraction of a **calendar** month. ~~shall be considered as a month of service.~~ However, ~~no~~ **a judge is not entitled to** more than one (1) month ~~shall be credited~~ **of credit** for services **performed** in ~~any one (1)~~ **a** calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office, but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into ~~said~~ **the** fund during all the periods served as judge, ~~except as otherwise provided in this chapter,~~ whether ~~said~~ **the** periods ~~be a connected period~~ **are served consecutively** or ~~disconnected period, but shall~~ **not.**

(c) Except as otherwise provided in this chapter, a judge is not ~~be~~ required to pay into ~~said~~ **the** fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under ~~IC 33-4-8. except as otherwise provided in this chapter.~~ **????.**

SECTION 1470. IC 33-13-9.1-10, AS AMENDED BY P.L.61-2002, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9.1-10] Sec. 18. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1977 benefit system under section [1] of this chapter, credit for prior service by the

judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

(1) the prior service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1977 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1977 benefit system during the prior service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1977 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1977 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are

satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior service under the judges' 1977 benefit system may be granted only under subsection (b).

(5) Credit for prior service in the public employees' retirement fund for service other than as a full-time referee, full-time commissioner, or full-time magistrate remains under the public employees' retirement fund and may not be credited under the judges' 1977 benefit system.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 1471. IC 33-13-9.1-10.5, AS AMENDED BY P.L.61-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-9.1-10.5] Sec. 19. (a) This section applies only to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was a member of an Indiana public employees' retirement fund;

(3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section ~~10~~ **18** of this chapter;

(4) has not attained vested status under an Indiana public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under an Indiana public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977 benefit system as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the **appropriate** board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in an Indiana public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in

Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Chapter 8. 1985 Retirement, Disability, and Death System

SECTION 1472. IC 33-13-10.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-1] Sec. 1. This chapter applies only to an individual who begins service as a judge after August 31, 1985.

SECTION 1473. IC 33-13-10.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-2] ~~Sec. 2. As used in this chapter, the following terms have the meanings set for them in IC 33-13-8-2:~~

~~Americans with Disabilities Act~~

~~Board~~

~~Employer~~

~~Fund~~

~~Participant~~

~~Salary~~

~~Services~~

SECTION 1474. IC 33-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-8-2 part] Sec. 2. ~~The following words and phrases~~ As used in this chapter, ~~unless different meanings are plainly indicated by their context, shall have the following respective meanings:~~ "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

[33-13-8-2 part] Sec. 3. **As used in this chapter,** "board" ~~means~~ **refers to** the board of trustees of the public employees' retirement fund.

[33-13-8-2 part] Sec. 4. **As used in this chapter,** "employer" means the state of Indiana.

[33-13-8-2 part] Sec. 5. **As used in this chapter,** "fund" ~~means~~ **refers to** the Indiana judges' retirement fund ~~the fund created by this chapter.~~ **established by IC 33-38-6-12.**

SECTION 1475. IC 33-13-8-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-3.5] Sec. 6. (a) As used in this chapter, ~~IC 33-13-9.1 and IC 33-13-10.1~~ "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on

September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

[33-13-8-2 part] Sec. 7. **As used in this chapter,** "participant" means ~~any~~ **a** judge ~~participating~~ **who participates** in the fund.

[33-13-8-2 part] Sec. 8. **As used in this chapter,** "salary" means the total salary paid to ~~any~~ **a** participant by the state ~~of Indiana~~ and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

[33-13-8-2 part] Sec. 9. **As used in this chapter,** "services" means the period beginning on the first day ~~upon which any~~ **a** person first ~~became~~ **becomes** a judge, whether ~~such~~ **the** date is ~~prior~~ **before, on,** or ~~subsequent to~~ **after** March 11, 1953, and ending on the date under consideration ~~including~~ **and includes** all intervening employment as a judge. ~~following resignation or expiration of any term of election or appointment services in any fraction of a month shall be considered as a month of service. However, no more than one (1) month shall be credited for services in any one (1) calendar month if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office, but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into said fund during all the periods served as judge, except as otherwise provided in this chapter, whether said periods be a connected period or disconnected period, but shall not be required to pay into said fund at any time when the judge is not serving as judge or during any period of service as a senior judge under IC 33-4-8. except as otherwise provided in this chapter.~~

SECTION 1476. IC 33-13-10.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-3] Sec. 10. ~~Each~~ **A** person who:

(1) begins service as a judge after August 31, 1985; and

(2) is ~~then~~ not a participant **in the fund;**

shall become a participant in the fund.

SECTION 1477. IC 33-13-10.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-4] Sec. 11. (a) ~~Each~~ **A** participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge. However, the employer may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and

credited to the fund as provided in ~~IC 33-13-8-21 and IC 33-13-8-22.~~ **IC 33-38-6-21 and IC 33-38-6-22.** However, ~~no~~ **a** contribution is **not** required:

(1) because of any salary received after the participant has contributed to the fund for twenty-two (22) years; or

(2) during any period that the participant is not serving as judge.

SECTION 1478. IC 33-13-10.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-5] Sec. 12. ~~Any~~ **(a) A** participant who:

(1) ceases service as a judge, other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed, payable within sixty (60) days from date of withdrawal application or in ~~such~~ monthly installments as the participant may elect.

SECTION 1479. IC 33-13-10.1-6, AS AMENDED BY P.L.194-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-6] Sec. 13. ~~Any~~ **A** participant whose employment as judge is terminated is entitled to a retirement benefit computed under section ~~7~~ **14** of this chapter, beginning on the date specified by the participant in a written application, if ~~all of~~ the following conditions are met:

(1) The date upon which the benefit begins is not:

(A) before the date of final termination of employment of the participant; or

(B) the date thirty (30) days before the receipt of the application by the board.

(2) The participant:

(A) has attained at least ~~the age of~~ sixty-two (62) **years of age** and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving ~~any~~ **a** salary from the state for services currently performed, except for services rendered in the capacity of judge pro tempore or senior judge.

SECTION 1480. IC 33-13-10.1-7, AS AMENDED BY P.L.194-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-7] Sec. 14. (a) Benefits

provided under this section are subject to ~~IC 33-13-8-3.5~~ **IC 33-38-6-13** and section ~~13~~ **20** of this chapter.

(b) ~~The amount of the annual retirement benefit to which~~ A participant who:

(1) applies for a retirement benefit; and ~~who~~

(2) is at least:

(A) sixty-five (65) years of age; or ~~is at least~~

(B) fifty-five (55) years of age and meets the requirements under section ~~6(2)(B)~~ **13(2)(B)** of this chapter;

is entitled **to an annual retirement benefit as calculated in subsection (c).**

(c) The annual retirement benefit for a participant who meets the requirements of subsection (b) equals the product of:

(1) the salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

~~(c)~~ **(d)** Except as provided in section ~~6(2)(B)~~ **13(2)(B)** of this chapter and subsection (b)**(2)(B),** if a participant who applies for a retirement benefit has not attained ~~age~~ sixty-five (65) years **of age**, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were ~~age~~ sixty-five (65) **years of age** reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the

participant's sixty-fifth birthday. This reduction does not apply to:

(1) participants who are separated from service because of permanent disability;

(2) survivors of participants who die while in service after August 1, 1992; or

(3) survivors of participants who die while not in service but while entitled to a future benefit.

SECTION 1481. IC 33-13-10.1-8, AS AMENDED BY P.L.194-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-8] Sec. 15. (a) A participant ~~shall be~~ **is** considered permanently disabled if the board has received a written certification by at least two (2) licensed and practicing physicians, appointed by the board, that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and

(2) the condition is likely to be permanent.

(b) The participant shall be reexamined by at least two (2) physicians appointed by the board, at ~~such~~ **the** times ~~as~~ the board may designate but at intervals ~~of~~ not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits shall cease to be payable as of the date of ~~such~~ **the** examination unless, on that date, the participant is at least:

(1) sixty-five (65) years of age; or ~~is at least~~

(2) fifty-five (55) years of age and meets the requirements under section ~~6(2)(B)~~ **13(2)(B)** of this chapter.

~~(b)~~ **(c)** To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by the initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

SECTION 1482. IC 33-13-10.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-9] Sec. 16. (a) Benefits provided under this section are subject to ~~IC 33-13-8-3.5~~ **IC 33-38-6-13** and section ~~13~~ **20** of this chapter.

(b) ~~The amount of the annual benefit payable to which~~ A participant who ~~has become~~ **becomes** permanently disabled is entitled **to an annual benefit that** equals the product of:

(1) the salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

SECTION 1483. IC 33-13-10.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-10] Sec. 17. (a) Benefits provided under this section are subject to ~~IC 33-13-8-3.5~~ **IC 33-38-6-13** and section ~~13~~ **20** of this chapter.

(b) The surviving spouse or child or children, ~~of a participant,~~ as designated by the participant, of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) was permanently disabled; or

(D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

~~is~~ **are** entitled, regardless of the participant's ~~age,~~ **ages,** to the benefit prescribed by subsection (c).

(c) The surviving spouse or child or children, as designated under subsection (b), ~~is~~ **are** entitled to a benefit equal to the greater of:

(1) fifty percent (50%) of the amount of **the** retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section ~~7(c)~~ **14(d)** of this chapter; or

(2) the amount determined under the following table:

TABLE

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

(d) The benefit payable to a surviving spouse or surviving child or children under subsection (c) is subject to the following:

(1) A surviving spouse is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.

(3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in equal monthly amounts.

(4) ~~Each~~ **A** child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child named as a beneficiary by a participant survives the participant.

(B) No children designated by the participant are entitled to a benefit due to their age at the time of death of the participant.

(C) A designation is not made.

(7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 1484. IC 33-13-10.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-11] Sec. 18. (a) Benefits provided under this section are subject to ~~IC 33-13-8-3.5~~ **IC 33-38-6-13** and section ~~13~~ **20** of this chapter.

(b) If a participant's spouse does not survive the participant, and

there is no child designated and entitled to receive a benefit under section ~~10~~ **17** of this chapter, any surviving dependent child of a participant is, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section ~~10~~ **17** of this chapter.

(c) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, ~~that~~ **the** dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section ~~10~~ **17** of this chapter.

(d) If there is more than one (1) dependent child, then the dependent children are entitled to share the benefit equally.

(e) ~~Each~~ **A** dependent child is entitled to receive ~~that~~ **the** child's share until the child ~~reaches the age of~~ **becomes** eighteen (18) years **of age** or during the entire period of the child's physical or mental disability, whichever period is longer.

SECTION 1485. IC 33-13-10.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-12] Sec. 19. (a) Benefits provided under this section are subject to ~~IC 33-13-8-3.5.~~ **IC 33-38-6-13.**

(b) If ~~no~~ benefits are **not** payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board, the total of the participant's contributions plus interest (as determined by the board) minus any payments made to the participant shall be paid to:

(1) the surviving spouse of the participant or a child or children of the participant, as designated by the participant;

(2) any other dependent or dependents of the participant, if a spouse or designated child does not survive; or

(3) the participant's estate, if a spouse, designated child, or other dependent does not survive.

(c) The amount owed a spouse, designated child, or other dependent or dependents, or estate under subsection (b) is payable within sixty (60) days from the date of receipt of the withdrawal application or in such monthly installments as the recipient elects.

SECTION 1486. IC 33-13-10.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-13] Sec. 20. Notwithstanding any other provision of this chapter, benefits paid under this chapter may not exceed the maximum annual benefit specified by Section 415 of the Internal Revenue Code.

SECTION 15. IC 33-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:[33-13-8-2 part] Sec. 21. ~~"Services" means the period beginning on the first day upon which any person first became a judge, whether such date is prior or subsequent to March 11, 1953, and ending on the date under consideration including all intervening employment as a judge following resignation~~

~~or expiration of any term of election or appointment.~~ **(a) A judge is entitled to a month of service credit for** services **performed** in any fraction of a **calendar** month. ~~shall be considered as a month of service.~~ However, ~~no~~ **a judge is not entitled to** more than one (1) month ~~shall be credited~~ **of credit** for services **performed** in ~~any one (1)~~ **a** calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office, but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into ~~said~~ **the** fund during all the periods served as judge, ~~except as otherwise provided in this chapter,~~ whether ~~said~~ **the** periods ~~be a connected period~~ **are served consecutively** or ~~disconnected period, but shall~~ **not.**

(c) Except as otherwise provided in this chapter, a judge is not ~~be~~ required to pay into ~~said~~ **the** fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under ~~IC 33-4-8. except as otherwise provided in this chapter.~~ **????.**

SECTION 1487. IC 33-13-10.1-14, AS AMENDED BY P.L.61-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-14] Sec. 22. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1985 benefit system under section [1] of this chapter, credit for prior service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

(1) the prior service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1985 benefit system

during the prior service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1985 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section ~~6(2)(B)~~ **13(2)(B)** of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section ~~6(2)(B)~~ **13(2)(B)** of this chapter that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit

under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 1488. IC 33-13-10.1-14.5, AS AMENDED BY P.L.61-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-10.1-14.5] Sec. 23. (a) This section applies only to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was a member of an Indiana public employees' retirement fund;

(3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section ~~14~~ **22** of this chapter;

(4) has not attained vested status under an Indiana public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under an Indiana public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1985

benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the **appropriate** board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in an Indiana public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Chapter 9. Judicial Conference of Indiana and the Indiana Judicial Center

[NEW] Sec. 1. **As used in this chapter, "judicial conference"**

refers to the judicial conference of Indiana created in section 3 of this chapter.

[NEW] Sec. 2. **As used in this section 4 of this chapter, "trial court judges" refers only to those trial court judges who are members of the judicial conference under section 3 of this chapter.**

SECTION 1489. IC 33-13-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-14-1] Sec. 3. (a) ~~There is created a~~ **The** judicial conference of Indiana **is created.**

(b) The membership of the **judicial** conference consists of the following:

(1) All justices of the supreme court.

(2) All judges of the court of appeals.

(3) The judge of the tax court.

(4) All circuit, superior, probate, and county court judges.

(5) All municipal court judges who are serving on a full time basis.

(6) Any retired judge who serves as a special judge and notifies the conference of the service.

(c) A full-time magistrate under ~~IC 33-4-7~~ **????** is a nonvoting member of the conference.

SECTION 1490. IC 33-13-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-14-2] Sec. 4. (a) The activities of the judicial conference shall be directed by a board of directors having the following members:

(1) The chief justice of Indiana.

(2) The chief judge of the court of appeals.

(3) The president of the Indiana judges association.

(4) The president of the Indiana council of juvenile court judges.

(5) One (1) judge from each of the trial court districts established by the supreme court, elected for a term of two (2) years by the trial court judges of the district.

(6) Five (5) trial court judges appointed for terms of one (1) year by the chief justice of Indiana.

(b) The chief justice of Indiana shall serve as chairman of the board of directors. The judicial conference, through the board of directors:

(1) shall establish a staff agency to be designated the Indiana judicial center; and

(2) may establish positions for an executive director, staff personnel, and other necessary personnel.

All personnel of the Indiana judicial center shall be appointed by the chief justice of Indiana, and their salaries shall be fixed by the supreme court, subject to appropriation by the general assembly.

~~(c) As used in this section, "trial court judges" refers only to those trial court judges who are members of the judicial conference~~

~~according to section 1 of this chapter.~~

SECTION 1491. IC 33-13-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-14-3] Sec. 5. (a) The entire membership of the judicial conference shall meet:

(1) at least once a year at a time and place to be fixed by the board of directors; and

(2) at ~~such~~ other times as may be designated by ~~it.~~ **the board of directors.**

(b) The judicial conference may create committees either upon action of the board of directors or by majority vote of the members attending a meeting of the conference. The conference, the board of directors, or any committee of the conference may hold hearings on any question related to the duties set out in section ~~4~~ **6** of this chapter. A proposal for legislation relating to courts that is made by the conference shall be presented to the division of state court administration for study and recommendation by the division before being presented to the general assembly.

SECTION 1492. IC 33-13-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-14-4] Sec. 6. The judicial conference shall **do the following:**

(1) Promote an exchange of experience and suggestions regarding the operation of Indiana's judicial system.

(2) Promote the continuing education of judges.

(3) Seek to promote a better understanding of the judiciary.

(4) Act as administrator for probationers participating in the interstate compact for the supervision of parolees and probationers under IC 11-13-4-3. ~~and~~

(5) Act as compact administrator for probationers participating in the interstate compact on juveniles under IC 11-13-4-3.

SECTION 1493. IC 33-13-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-14-5] Sec. 7. All members, including full-time magistrates, shall attend and those invited to participate may attend the meetings of the judicial conference. Per diem and travel allowances authorized by law shall be paid to the members and full-time magistrates attending from the annual appropriation to the judicial conference of Indiana.

SECTION 1494. IC 33-13-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-14-6] Sec. 8. (a) The Indiana judicial center shall maintain a roster of in-state facilities that have the expertise to provide child services (as defined in IC 12-19-7-1) in a residential setting to:

(1) children in need of services (as described in IC 31-34-1); or

(2) delinquent children (as described in IC 31-37-1 and IC 31-37-2).

(b) The roster under subsection (a) must include the information

that a court having juvenile jurisdiction needs to select an in-state placement of a child instead of placing the child in an out-of-state facility under IC 31-34 or IC 31-37. The roster must include at least the following information:

(1) Name, address, and telephone number of each facility.

(2) Owner and contact person for each facility.

(3) Description of the child services that each facility provides and any limitations that the facility imposes on acceptance of a child placed by a juvenile court.

(4) Number of children that each facility can serve on a residential basis.

(5) Number of residential openings at each facility.

(c) The Indiana judicial center shall revise the information in the roster at least monthly.

(d) The Indiana judicial center shall make the information in the roster readily available to courts with juvenile jurisdiction.

SECTION 1495. IC 33-13-14-7, AS AMENDED BY P.L.168-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-14-7] Sec. 9. The Indiana judicial center shall administer the alcohol and drug services program under IC 12-23-14 and the certification of drug courts under IC 12-23-14.5.

Chapter 10. Private Judges

SECTION 1496. IC 33-13-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-15-1] Sec. 1. As used in this chapter, "private judge" means a person who is qualified to act as judge of a case under this chapter.

SECTION 1497. IC 33-13-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-15-2] Sec. 2. (a) A person who:

(1) has been but is not currently a judge of a circuit, superior, criminal, probate, municipal, or county court and has served in the capacity of judge for at least four (4) consecutive years;

(2) is admitted to the practice of law in Indiana; and

(3) is a resident of Indiana;

may act as judge for certain cases ~~in accordance with~~ **under** this chapter.

(b) A person may act as a judge of a case under this chapter only if:

(1) all parties to the action file a written petition with the executive director of the division of state court administration consenting to the case being heard by a private judge, and naming the person whom ~~they~~ **the parties** wish to have as private judge;

(2) the case is one over which the court in which the former judge served would have had subject matter and monetary

jurisdiction;

(3) the case is founded exclusively on contract, tort, or a combination of contract and tort; and

(4) the case is one in which a utility, as defined in IC 8-1-2-1, is not a party.

SECTION 1498. IC 33-13-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-15-3] Sec. 3. (a) A former judge qualified under section 2(a) of this chapter who wishes to serve as a private judge must register with the executive director of the division of state court administration. The executive director shall:

(1) compile; ~~and~~

(2) periodically update; **and**

(3) make available to the public;

a list of registered former judges. ~~which he shall make available to the public.~~

(b) If the parties to an action wish to have the action heard before a private judge, ~~they~~ **the parties** shall submit to the executive director of the division of state court administration a written petition as described in section 2(b)(1) of this chapter. ~~and the executive director shall,~~ After verifying that the former judge is qualified under section 2(a) **of this chapter** and is registered under subsection (a), **the executive director shall** forward the petition to the former judge named on the petition.

(c) The regular or presiding judge of the court in which the action is filed shall appoint the private judge to hear the action if the written petition of the parties to the action and the written consent of the private judge to hear the action is presented to the regular or presiding judge:

(1) contemporaneously with the filing of the action; or

(2) after the action has been filed.

SECTION 1499. IC 33-13-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-15-4] Sec. 4. (a) ~~All trials~~ **A trial** conducted by a private judge shall be conducted without a jury.

(b) A person who serves as a private judge has, for each case ~~that he~~ **the private judge** hears, the same powers as the judge of a circuit court in relation to:

(1) court procedure;

(2) deciding the outcome of the case;

(3) attendance of witnesses;

(4) punishment of contempts;

(5) enforcement of orders;

(6) administering of oaths; and

(7) giving of all necessary certificates for the authentication of

the records and proceedings.

(c) All proceedings in an action heard by a private judge ~~shall be~~ **are** of record ~~which shall~~ **and must** be:

(1) filed with the clerk of the circuit court in the county of proper venue under the Indiana rules of trial procedure; and

(2) made available to the public in the same manner as circuit court records.

(d) The Indiana rules of trial procedure apply for all actions brought before a private judge. ~~and~~ An appeal from an action or judgment of a private judge may be taken in the same manner as an appeal from the circuit court of the county where the case is filed.

SECTION 1500. IC 33-13-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-15-5] Sec. 5. Costs in an action brought before a private judge shall be taxed and distributed in the same manner as costs in the circuit court of the county in which the case is filed.

SECTION 1501. IC 33-13-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-15-6] Sec. 6. (a) The clerk of the circuit court of the county ~~where~~ **in which** the case is filed ~~shall serve~~ **serves** as the clerk of the court for a case heard by a private judge, and the sheriff of that county ~~shall serve~~ **serves** as the sheriff of the court for ~~such a~~ **the** case. ~~They~~ **The clerk and the sheriff** shall attend the proceedings and perform the same duties relating to their offices as ~~they~~ are required ~~to do~~ for the circuit court of the county in which the case is filed.

(b) The clerk of the circuit court of the county in which the case is filed shall provide to a private judge for each case all books, dockets, papers, and printed blanks necessary to discharge the duties of the court.

SECTION 1502. IC 33-13-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-15-7] Sec. 7. (a) A case heard by a private judge may be heard:

(1) at any time; and

(2) at any place in Indiana;

that is mutually agreeable to all parties and the judge.

(b) There shall be posted in the office of the clerk of the circuit court of the county in which the case is filed, in a place accessible to the public, a notice of the date, time, and place of any proceeding, **including:**

(1) a hearing on a motion for judgment by default;

(2) a hearing for judgment on the pleadings;

(3) a hearing for summary judgment; and

(4) a trial upon the merits;

~~which~~ **that** could result in a judgment. ~~Such proceedings include, but are not limited to, hearings on motions for judgment by default,~~

~~judgment on the pleadings, summary judgment and trial upon the merits. Such~~ **The** notice shall be posted at least three (3) days before the proceeding is conducted.

SECTION 1503. IC 33-13-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-15-8] Sec. 8. Notwithstanding the rules of trial procedure, a private judge may receive compensation for hearing a case in an amount and subject to the terms and conditions agreed to by the judge and the parties to the case. A contract for the services of a private judge must provide for the payment of the judge's compensation by the parties. In addition, the contract must include terms and conditions relating to:

(1) the compensation of all personnel; and

(2) the costs of all facilities and materials;

as determined by the clerk of the court ~~which~~ **that** are used in relation to the case and ~~which are~~ not otherwise covered.

SECTION 1504. IC 33-13-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-15-9] Sec. 9. The supreme court shall ~~judicially~~ adopt rules to carry out this chapter.

Chapter 11. Temporary Judges

SECTION 1505. IC 33-13-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-1] Sec. 1. (a) The judge of a circuit, superior, or county court may appoint temporary judges. Each temporary judge must be:

(1) a competent attorney admitted to the practice of law in Indiana; and ~~must be~~

(2) a resident of the judicial district of the court after the temporary judge's appointment.

The temporary judge's appointment must be in writing. The temporary judge continues in office until removed by the judge.

(b) A temporary juvenile law judge may be appointed under this subsection for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40. The appointment shall be made under an agreement between at least two (2) judges of courts **located:**

(1) ~~all of which are located~~ in the same county; or

(2) ~~all of which are located~~ in counties that are adjacent to ~~one another.~~ **each other.**

(c) An agreement under subsection (b) must:

(1) be filed with the circuit court clerk of each county in which a court subject to the agreement is located;

(2) specify the duration of the agreement, which may not exceed one (1) year; and

(3) permit a judge to end the participation of a court in the agreement.

SECTION 1506. IC 33-13-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-2] Sec. 2. A

temporary judge:

(1) may:

(A) administer all oaths and affirmations required by law;

(B) take and certify affidavits and depositions; and

(C) issue subpoenas for witnesses whose testimony is to be taken before ~~him.~~ the temporary judge;

(2) has the same power to compel the attendance of witnesses and to punish contempts as the judge of the court ~~has; The temporary judge~~

(3) may:

(A) conduct preliminary hearings in criminal matters; ~~and~~

(B) issue search warrants and arrest warrants; and

(C) fix bond; ~~thereon,~~ and ~~he~~

(4) may enforce court rules.

SECTION 1507. IC 33-13-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-3] Sec. 3. **(a) Except as provided in subsection (b),** a temporary judge may hear evidence upon and report ~~his~~ findings to the judge of the court for each probate, civil, criminal, and other case referred to the temporary judge by that judge. The temporary judge may:

(1) make the final judgment in these cases; and

(2) in a criminal case tried by the court, conduct all sentencing hearings in the case.

~~However,~~ **(b)** If ~~the criminal case is a case in which the~~ **a** defendant is being tried for a felony, the judge of the court shall conduct all sentencing hearings and make the final judgment in the case.

SECTION 1508. IC 33-13-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-4] Sec. 4. A temporary judge may:

(1) conduct a jury trial;

(2) receive the verdict of the jury; ~~in a civil case referred to him by the judge of the court,~~ and

(3) make and enter the judgment on the jury verdict;

in ~~that~~ **a civil** case **referred to the temporary judge by the judge of the court.** [QUERY - IS THIS SECTION NECESSARY? IT MERELY REPEATS WHAT'S SET FORTH IN 33-13-16-3.]

SECTION 1509. IC 33-13-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-5] Sec. 5. In a criminal jury trial referred to ~~him~~ **a temporary judge** by the judge of the court, ~~a~~ **the** temporary judge may conduct the trial, receive the verdict of the jury, and conduct all sentencing hearings and make all final judgments. However, if the criminal case is a case in which the defendant is being tried for a felony, the judge of the court shall:

(1) make the final judgment in the case; and

(2) conduct all sentencing hearings in the case.

[QUERY - IS THIS SECTION NECESSARY? IT MERELY REPEATS WHAT'S SET FORTH IN 33-13-16-3.]

SECTION 1510. IC 33-13-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-6] Sec. 6. The judge of the court may:

(1) limit any of the rights or powers of the temporary judge specified in this chapter; and ~~the judge may~~

(2) specifically determine the duties of the temporary judge within the limits established in this chapter.

SECTION 1511. IC 33-13-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-7] Sec. 7. A temporary judge may serve as a judge pro tempore or a special judge of the court but is not entitled to additional compensation for that service.

SECTION 1512. IC 33-13-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-8] Sec. 8. A temporary judge has no power of judicial mandate.

SECTION 1513. IC 33-13-16-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-9] Sec. 9. A temporary judge is entitled to twenty-five dollars ($25), **paid by the county,** for each day ~~that he serves~~ **of service** as a temporary judge. ~~and this payment shall be paid by the county.~~

SECTION 1514. IC 33-13-16-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-10] Sec. 10. Except for:

(1) a temporary juvenile law judge appointed under section [1(b)] of this chapter for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40; or

(2) a temporary judge appointed by a court located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

a temporary judge appointed under this chapter may not serve for more than sixty (60) calendar days in the aggregate during a calendar year.

SECTION 1515. IC 33-13-16-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-16-11] Sec. 11. A temporary judge appointed under this chapter may serve even though the judge of the court is present and presiding in the court.

Chapter 12. Defense and Indemnification of Judges for Civil Damages

SECTION 1516. IC 33-13-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-17-1] Sec. 1. This chapter does not apply to a threatened, pending, or completed action or ~~a~~ proceeding that:

(1) results in the criminal conviction of; or
(2) is a disciplinary action or proceeding against;
a judge.

SECTION 1517. IC 33-13-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-17-2] Sec. 2. As used in this chapter, "expenses" includes the following:

(1) Reasonable attorney's fees, if the attorney general has authorized the executive director of the division of state court administration to hire private counsel to provide the defense.
(2) A judgment.
(3) A settlement.
(4) Court costs.
(5) Discovery costs.
(6) Expert witness fees.
(7) Any other expense incurred as a result of an action or a proceeding.

SECTION 1518. IC 33-13-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-17-3] Sec. 3. As used in this chapter, "judge" means an individual who ~~currently~~ holds or formerly held one (1) of the following offices or appointments:

(1) Justice of the supreme court.
(2) Judge of the court of appeals.
(3) Judge of the tax court.
(4) Judge of a circuit court.
(5) Judge of a superior court.
(6) Judge of a probate court.
(7) Judge of a municipal court.
(8) Judge of a county court.
(9) Judge of a city court.
(10) Judge of a town court.
(11) Judge of a small claims court.
(12) A judge pro tempore, senior judge, temporary judge, or any other individual serving as judge in an action or a proceeding in an Indiana court.
(13) Bail commissioner.
(14) Magistrate.
(15) Master commissioner.
(16) Probate commissioner.
(17) Referee.

SECTION 1519. IC 33-13-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-13-17-4] Sec. 4. The state shall pay the expenses incurred by a judge from a threatened, pending, or completed action or proceeding that arises from:

(1) making;
(2) performing; or

(3) failing to make or perform;

a decision, a duty, an obligation, a privilege, or a responsibility of the judge's office.

Chapter 13. The **Commission on** Judicial Qualifications ~~Commission~~ and the Retirement, Discipline, and Removal of **Justices and** Judges

SECTION 1520. IC 33-2.1-5-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-29] Sec. 1. This chapter applies to all proceedings before the commission on judicial qualifications and masters involving the censure, retirement, or removal of justices of the supreme court **and** judges of the court of appeals, as provided by Article 7, Section 11 of the ~~Indiana~~ Constitution **of the State of Indiana.**

[33-2.1-1-3(7)] Sec. 2. ~~(7)~~ **As used in this chapter,** "commission" ~~on judicial qualifications"~~ means the commission **on judicial qualifications** described in Article 7, Section 9 of the Constitution of the State of Indiana.

[33-2.1-1-3(13)] Sec. 3. ~~(13)~~ **As used in this chapter,** "counsel" means the lawyer designated by the commission to:

(1) gather and present evidence before the masters or commission with respect to the charges against a judge; and ~~to~~

(2) represent the commission before the supreme court in connection with any proceedings before the court.

[33-2.1-1-3(8)] Sec. 4. ~~(8)~~ **As used in this chapter,** "judge" means a judge of the court of appeals. ~~except when used in:~~

~~(A) IC 33-2.1-5, in which case the term "judge" shall include justices of the supreme court as well as judges of the court of appeals; or~~

~~(B) IC 33-2.1-8.~~

[33-2.1-1-3(15)] Sec. 5. ~~(15)~~ **As used in this chapter,** "mail" ~~and "mailed" include~~ **includes** ordinary mail or personal delivery.

[33-2.1-1-3(11)] Sec. 6. ~~(11)~~ **As used in this chapter,** "masters" means the special masters appointed by the chief justice upon request of the commission.

[33-2.1-1-3(12)] Sec. 7. ~~(12)~~ **As used in this chapter,** "presiding master" means the master so designated by the chief justice or, in the absence of ~~such~~ **a** designation, the justice or judge named in the order appointing masters.

SECTION 1521. IC 33-2.1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-1] Sec. 8. ~~Retirement.~~ **(a)** Every justice **of the supreme court** and judge of the court of appeals ~~and Supreme Court~~ shall retire at ~~age~~ seventy-five (75) **years of age.**

(b) Notwithstanding subsection (a), the supreme court ~~is~~

~~empowered to~~ **may** authorize retired justices and judges to perform temporary judicial duties in any **state** court. ~~of the state.~~

SECTION 1522. IC 33-2.1-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-2] Sec. 9. ~~Meeting of Commissioners.~~ (a) The commission on judicial qualifications shall meet ~~from time to time~~ as ~~may be~~ necessary to discharge its statutory and constitutional responsibilities. Meetings of the commission ~~for judicial qualifications~~ shall be called in the same manner as prescribed for the judicial nominating commission. **Four (4) members of the commission constitute** a quorum for the transaction of business. ~~shall be four members of the Commission.~~

(b) Meetings of the commission ~~are to~~ **shall** be held ~~at such place~~ in Indiana as the chairman of the commission ~~may arrange.~~ **arranges.**

(c) The commission ~~shall~~ **may** act only at a meeting. The commission ~~shall have the power to~~ **may** adopt ~~reasonable and proper~~ rules and regulations ~~for the~~ **to** conduct ~~of its~~ meetings and ~~the~~ discharge ~~of~~ its duties.

SECTION 1523. IC 33-2.1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-3] Sec. 10. (a) All papers filed with ~~the proceedings before~~ the commission ~~prior to~~ **before** the institution of formal proceedings ~~as provided in~~ **under** section ~~7~~ **14** of this chapter ~~shall be~~ **are** confidential unless:

(1) the justice or judge against whom a recommendation has been filed elects to have ~~such~~ **the** information divulged; or ~~unless~~

(2) the commission elects to answer publicly disseminated statements issued by any complainant.

(b) All papers filed with the commission ~~at the time of,~~ **during** and after the institution of formal proceedings ~~shall be~~ **are** open for public inspection at all reasonable times. Records of commission proceedings ~~shall be~~ **are** open for public inspection at all reasonable times. **After the institution of formal proceedings,** all hearings and proceedings before the commission or before the masters appointed ~~pursuant to~~ **under** this ~~article shall, after the institution of formal proceedings, be~~ **chapter are** open to the public.

SECTION 1524. IC 33-2.1-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-4] Sec. 11. ~~Defamatory Material. The~~ Filing ~~of~~ papers with ~~or the~~ **and** giving ~~of~~ testimony before the commission or ~~before~~ the masters appointed by the supreme court ~~pursuant to~~ **under** this ~~article shall be~~ **chapter are** privileged.

SECTION 1525. IC 33-2.1-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-5] Sec. 12. ~~Commission; Complaint. Complaints to~~ **(a) A complaint filed with** the commission on judicial qualifications ~~shall~~ **must** be in writing **and**

directed to the commission or to any member of the commission. ~~No~~

(b) A specified form of complaint ~~shall~~ **may not** be required.

SECTION 1526. IC 33-2.1-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-6] Sec. 13. ~~Request of Justice or Judge to Retire; Complaint Filed by Citizen or on Commission's Own Motion; Investigation.~~ (a) Any citizen of ~~the state of~~ Indiana ~~shall have the right at all times to~~ **may** complain to the commission ~~on judicial qualifications with reference to~~ **about** the activities, fitness, or qualifications of a judge or justice. Upon ~~receipt of any such~~ **receiving a** complaint, ~~or request,~~ the commission shall ~~make such initial inquiry as is necessary to~~ determine if ~~a~~ **the** complaint is founded and not frivolous. If the commission determines that the complaint ~~was~~ **is** frivolous or malicious, the commission shall file with the proper court charges against the ~~person or persons bringing such charges.~~ **complainant.** The commission, without receiving a complaint, may ~~make such~~ **conduct** an initial inquiry on its own motion.

(b) If the commission ~~deems~~ **determines** it **is** necessary ~~as the results of its initial inquiry~~ to ~~conduct an investigation,~~ **investigate a justice or judge, the commission shall notify** the justice or judge ~~involved shall then be notified of~~ **by prepaid registered or certified mail addressed to the justice or judge at the justice's or judge's chambers and last known residence. The notice must contain information concerning the following:**

(1) The investigation.

(2) The nature of the ~~charge, and~~ **complaint.**

(3) The origin of the complaint, including the name of the ~~person making the complaint, if any,~~ **complainant** or that the investigation is on the commission's ~~own~~ motion. ~~and shall be afforded reasonable~~

(4) The opportunity ~~in the course of the investigation~~ to present ~~such~~ matters as ~~he~~ **the justice or judge** may choose. ~~Such notice shall be given by pre-paid registered or certified mail addressed to the judge at his chambers and at his last known address.~~ **chooses.**

If the investigation does not disclose sufficient cause to warrant further proceedings the **justice or** judge shall be so notified.

(c) The commission ~~shall have the power to~~ **may do the following:**

(1) Make investigations ~~by members of the Commission~~ or ~~by~~ **employ** special investigators. ~~employed by the Commission; to~~

(2) Hold confidential hearings with the ~~person or persons filing the complaint;~~ **complainant** or ~~with his or their~~ **the complainant's** agents or attorneys. ~~and to~~

(3) Hold confidential hearings with the judge or justice involved

in the complaint.

~~(c)~~ **(d)** If:

(1) the commission's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings; and ~~if~~

(2) the complainant ~~subsequently~~ issues ~~any~~ **a public** statement ~~or statements of any kind for public dissemination~~ relating to the activities or actions of the commission;

the commission ~~shall have the right to~~ **may** answer ~~such~~ **the** statement ~~or statements~~ by ~~reference~~ **referring** to ~~so much of~~ the record of its proceedings or **the** results of its investigation. ~~as it deems necessary.~~

SECTION 1527. IC 33-2.1-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-7] Sec. 14. ~~Notice of Formal Proceedings.~~ (a) ~~After the investigation has been completed~~ If the commission concludes ~~that~~ **after investigation to institute** formal proceedings ~~should be instituted it~~ **against a justice or judge, the commission** shall give written notice **of the proceedings** to the justice or judge ~~advising him of the institution of formal proceedings to inquire into the charges against him. Such~~ **by registered or certified mail addressed to the judge at the judge's chambers and last known residence. The** proceedings ~~shall~~ **must** be entitled:

"BEFORE THE INDIANA JUDICIAL
QUALIFICATIONS COMMISSION
Inquiry Concerning a (Justice) Judge, No. _____"

(b) The notice ~~shall.~~ **must:**

(1) be issued in the name of the commission; ~~and~~

(2) specify in ordinary and concise language the charges against the **justice or** judge and the alleged facts upon which ~~such~~ **the** charges are based; and ~~shall~~

(3) advise the **justice or** judge of ~~his~~ **the justice's or judge's** right to file a written answer to the charges ~~against him within~~ **not more than** twenty (20) days after service of the notice. ~~upon him. No~~

A charge ~~shall be~~ **is not** sufficient if it merely recites the general language of the original complaint, but must specify the facts relied upon to support a particular charge.

(c) A copy of ~~said~~ **the** notice shall be filed in the office of the commission.

~~(c) The notice shall be made upon the justice or judge by registered or certified mail addressed to the justice or judge at his chambers and his last known residence.~~

SECTION 1528. IC 33-2.1-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-8] Sec. 15. ~~Answer. Within~~ **Not more than** twenty (20) days after service of the notice of formal proceedings, the justice or judge:

(1) may file with the commission a signed original and one **(1)** copy of an answer; and

(2) shall ~~serve~~ **mail** a copy **of the answer** ~~on~~ **to** the counsel. ~~by mail.~~

SECTION 1529. IC 33-2.1-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-9] Sec. 16. ~~Setting for Hearing Before Commission or Masters.~~ **(a)** Upon the filing of **or the expiration of time for filing** an answer, ~~or upon the expiration of the time for its filing,~~ the commission shall: ~~order~~

(1) hold a hearing ~~to be held before it~~ concerning the discipline, retirement, or removal of the justice or judge; or ~~shall~~

(2) request the supreme court to appoint three **(3) active or retired justices or judges as of courts of record as** special masters ~~who shall be active or retired justices or judges of courts of record~~ to hear and take evidence ~~in such proceeding~~ and ~~the~~ report ~~thereon~~ to the commission.

(b) The commission shall:

(1) set ~~an approximate~~ **a** time and ~~a~~ place for a hearing ~~before itself or before the masters,~~ **under subsection (a);** and ~~shall~~

(2) give notice of ~~such~~ **the** hearing by registered or certified mail to the **justice or** judge, the masters, and ~~to~~ the counsel ~~at least~~ **not less than** twenty (20) days ~~prior to~~ **before** the date ~~set.~~ **of the hearing.**

SECTION 1530. IC 33-2.1-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-10] Sec. 17. ~~Hearing.~~ (a) ~~At the time and place set for hearing,~~ The commission or ~~the~~ **a** master ~~when the hearing is before a master,~~ may proceed with ~~the~~ **a scheduled** hearing whether or not the judge ~~has filed~~ **files** an answer or appears at the hearing.

(b) The failure of ~~the~~ **a justice or** judge to answer or ~~to~~ appear at the hearing ~~standing alone, shall~~ **may** not be taken as evidence of the truth of the facts alleged to constitute grounds for censure, retirement, or removal. In ~~any~~ **a** proceeding for involuntary retirement for disability, the failure of ~~the~~ **a justice or** judge to testify in ~~his own~~ **the justice's or judge's** behalf or to submit to a medical examination requested by the commission or the masters may be considered, unless ~~it appears that such~~ **the** failure was due to circumstances beyond ~~his~~ **the justice's or judge's** control.

(c) The ~~proceedings at the~~ hearing shall be reported verbatim.

(d) ~~When the hearing is before the Commission, Not less than~~ **At least** four **(4) commission** members ~~shall~~ **must** be present when ~~the~~ evidence is produced **at a hearing before the commission.**

SECTION 1531. IC 33-2.1-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-11] Sec. 18.

~~Evidence.~~ **The Indiana Rules of Evidence apply** at a hearing before the commission or **the** masters. ~~the evidentiary rules of the courts of this state shall apply.~~

SECTION 1532. IC 33-2.1-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-12] Sec. 19. (a) In formal proceedings involving ~~the~~ **a justice's or** judge's discipline, retirement, or removal, ~~a~~ **the justice or** judge ~~shall have the right and reasonable opportunity to~~ **may do the following:**

(1) Defend against the charges by ~~the introduction of~~ **introducing** evidence. ~~to~~

(2) Be represented by counsel. ~~and to~~

(3) Examine and cross-examine witnesses. ~~The judge shall also have the right to the issuance of~~

(4) Issue subpoenas for attendance of witnesses to testify or produce ~~books, papers, and other~~ evidentiary matter ~~pursuant to~~ **under** section ~~24~~ **31** of this chapter.

(b) ~~When a transcript of~~ **The commission shall transcribe** the testimony ~~has been prepared at the expense of the commission,~~ **and provide** a copy ~~shall be furnished without~~ **at no** cost to the **justice or** judge. The **justice or** judge ~~has the right, without any order or approval, to~~ **is entitled to** have ~~all or~~ any ~~portion~~ **part** of the testimony ~~in the proceedings~~ transcribed at the **justice's or** judge's expense.

(c) Except as otherwise provided in this chapter, ~~whenever these rules provide for giving~~ notice or ~~sending~~ any **other** matter **shall be sent** to ~~the~~ **a justice or** judge ~~the notice or matter shall be mailed~~ by registered or certified mail to the judge at the judge's office and residence unless the judge requests otherwise in writing. ~~and~~ A copy ~~is~~ **of the notice or other matter must be** mailed to the judge's attorney of record.

(d) If ~~the~~ **a justice or** judge has been adjudged incapacitated under IC 29-3, the **justice's or judge's** guardian may claim and exercise any right and privilege and make any defense for the **justice or** judge with the same force and effect as if claimed, exercised, or made by the **justice or** judge if competent. ~~and whenever these~~ **If the** rules provide for serving or giving **notice or sending any matter to the justice or judge, a copy of any** notice or ~~sending any matter~~ **other matter sent** to the **justice or** judge ~~a copy of the notice or matter~~ also shall be served, given, or sent to the **justice's or judge's** guardian.

SECTION 1533. IC 33-2.1-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-13] Sec. 20. ~~Amendments to Notice or Answer.~~ The masters, at any time ~~prior to~~ **before** the conclusion of the hearing, or the commission, at any time ~~prior to~~ **before** its determination:

(1) may allow or require amendments to the notice of formal

proceedings; and

(2) may allow amendments to the answer.

The notice may be amended to conform to proof or to set forth additional facts whether occurring before or after the commencement of the hearing. ~~In case such~~ **If** an amendment is made, the judge shall be given reasonable time both to answer the amendment and to prepare and present ~~his~~ **a** defense. ~~against the matters charged thereby.~~

SECTION 1534. IC 33-2.1-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-14] Sec. 21. ~~Report of the Masters.~~ (a) After ~~the conclusion of the~~ **a** hearing, ~~before~~ the masters ~~they~~ shall promptly prepare and transmit to the commission **an original and four (4) copies of a transcript of the hearing and an original and four (4) copies of** a report ~~which shall contain~~ **that contains** a brief statement of the proceedings and ~~their~~ **the masters'** recommended findings of fact. ~~with respect to issues presented by the notice of formal proceedings and the answer thereto, or if there be no answer, their recommended findings of fact with respect to the allegations in the notice of formal proceedings.~~ The recommended findings of facts ~~by the masters shall~~ **are** not ~~be~~ binding upon the commission. ~~even though supported by substantial competent evidence. An original and four copies of the report shall be submitted which shall be accompanied by an original and four copies of a transcript of the proceedings before the masters.~~

(b) Upon receiving the report of the masters, the commission shall ~~promptly~~ mail a copy of the report and transcript to the judge and ~~also to~~ the counsel.

SECTION 1535. IC 33-2.1-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-15] Sec. 22. ~~Objections to Report of Masters. Within~~ **Not more than** fifteen (15) days after ~~mailing of~~ the **commission mails a** copy of the report of masters to the judge, the counsel or the **justice or** judge may file with the commission an original and one **(1)** copy of objections to the report of masters. ~~setting forth objections to the report and reasons in opposition to the recommended findings. A copy of objections filed by the counsel shall be sent by the counsel by mail~~ **If the counsel files objections, the counsel shall mail a copy of the objections** to the **justice or** judge. ~~A copy of objections filed by the judge shall be sent by the judge~~ **If the justice or judge files objections, the justice or judge shall send a copy of the objections** by registered or certified mail to the counsel.

SECTION 1536. IC 33-2.1-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-16] Sec. 23. ~~Appearance before Commission.~~ If ~~no~~ objections to ~~the~~ **a** report of masters **under section 21 of this chapter** are **not timely** filed, ~~within~~

~~the time provided,~~ the commission may adopt the recommended findings of the masters without a hearing. If ~~such~~ objections are **timely** filed, or if **objections are not timely filed and** the commission ~~in the absence of such objections~~ proposes to modify or reject the recommended findings of the masters, the commission shall give the **justice or** judge and the counsel an opportunity to be heard ~~orally~~ before the commission ~~and~~ **in the county in which the justice or judge resides. The commission shall mail** written notice of the time and ~~the~~ place of the hearing ~~in the county in which the judge resides shall be mailed~~ to the **justice or** judge and ~~to~~ the counsel ~~at least~~ **not less than** ten (10) days ~~prior thereto.~~ **before the hearing.**

SECTION 1537. IC 33-2.1-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-17] Sec. 24. ~~Extension of Time.~~ **(a)**The ~~Chairman~~ **chairperson** of the commission may extend the time for:

(1) filing an answer; ~~for the commencement of~~

(2) conducting a hearing before the commission; and ~~for~~

(3) filing objections to the report of the masters. ~~and~~

(b) The presiding master **may,** with the approval of the ~~chairman~~ **chairperson** of the commission, ~~may~~ extend the time for ~~the commencement of~~ **conducting** a hearing before **the** masters.

SECTION 1538. IC 33-2.1-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-18] Sec. 25. **(a)** The commission may order a hearing ~~for the taking of~~ **to take** additional evidence at any time while ~~the~~ **a** matter is pending before it. **The hearing must be in the county in which the justice or judge resides.** The order ~~shall~~ **must** set the time and ~~the~~ place of the hearing ~~in the county in which the judge resides~~ and shall indicate the matters on which ~~the~~ evidence ~~is to~~ **will** be taken. **The commission shall send** a copy of ~~such~~ **the** order ~~shall be sent by registered or certified mail~~ to the judge and ~~to~~ the counsel ~~at least~~ **not less than** ten (10) days ~~prior to the date of~~ **before the** hearing. ~~In any case in which~~ **If** masters have been appointed, the hearing ~~of additional evidence~~ shall be before ~~such~~ **the** masters, and the ~~proceedings therein shall be in conformance~~ **hearing must conform** with ~~the provisions of sections [11~~ through ~~18~~ ????] of this chapter.

SECTION 1539. IC 33-2.1-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-19] Sec. 26. ~~Commission Vote.~~ If the commission finds good cause, it shall recommend to the supreme court the censure, retirement, or removal of ~~the~~ **a justice or** judge. ~~When the~~ **If a** hearing ~~was held~~ **is** before **the** masters, the affirmative vote of four (4) members of the commission is required ~~for a recommendation of~~ **to recommend** censure, retirement, or removal of a **justice or** judge. ~~When the~~ **If a** hearing ~~was held~~ **is**

before the commission, ~~without masters~~ the affirmative vote of four (4) members of the commission, including a majority of ~~those~~ **the members** who were present at the hearing, ~~or hearings when the evidence was produced,~~ is required ~~for a recommendation of discipline,~~ **to recommend censure,** retirement, or removal of a **justice or** judge.

SECTION 1540. IC 33-2.1-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-20] Sec. 27. ~~Record of Commission Proceedings.~~ The commission shall keep a record of all formal proceedings concerning a judge. The ~~Commission's~~ **commission shall record its** determination ~~shall be entered in the record~~ and **mail** notice ~~thereof shall be mailed~~ **of the determination** to the judge and ~~to~~ the counsel. ~~In all formal proceedings resulting in a recommendation to the Supreme Court for~~ **If the commission recommends** censure, retirement, or removal, the commission shall prepare a transcript of the evidence and ~~of all~~ proceedings ~~therein~~ and shall make written findings of fact and conclusions of law. ~~with respect to the issues of fact and law in the proceedings.~~

SECTION 1541. IC 33-2.1-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-21] Sec. 28. ~~Certification of Commission Recommendation to Supreme Court.~~ Upon ~~making a determination~~ recommending the censure, retirement, or removal of a **justice or** judge, the commission shall promptly file **the following with the clerk of the supreme court:**

(1) A copy of the recommendation certified by the ~~chairman~~ **chairperson** or secretary of the commission. ~~together with the~~

(2) A transcript ~~and~~ **of the evidence.**

(3) Findings **of fact** and conclusions ~~with the Clerk of the Supreme Court and~~ **of law.**

The commission shall promptly mail to the **justice or** judge and ~~to~~ the counsel notice of ~~such~~ **the** filing ~~together with a copy of such recommendation, findings and conclusions.~~ **and copies of the filed documents.**

SECTION 1542. IC 33-2.1-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-22] Sec. 29. ~~Review of Commission Proceedings.~~ (a) ~~A petition to the Supreme Court to modify or reject the recommendation of the Commission for censure, retirement or removal of a judge may be filed by the judge within~~ **Not more than** thirty (30) days after ~~the filing~~ **a certified copy of the commission's recommendation is filed** with the clerk of the supreme court, ~~of the certified copy of the Commission's recommendation.~~ **a judge may petition the supreme court to modify or reject the commission's recommendation.**

(b) The **judge shall verify the** petition. ~~shall be verified, shall~~ **The petition must** be based on the record. ~~shall~~ **The petition must** specify

the grounds relied on and ~~shall~~ **must** be accompanied by **the** petitioner's brief ~~together with~~ **and** proof of service **of two (2) copies of the petition and brief** on the commission ~~of two copies,~~ and **one (1) copy of the petition and brief** on the counsel. ~~of one copy, of the petition and the brief. Within~~

(c) Not more than twenty (20) days after service of petitioner's brief, the commission shall file a respondent's brief and serve a copy ~~thereof~~ on the **justice or** judge. ~~Within~~ **Not more than** twenty (20) days after service of respondent's brief, the petitioner may file a reply brief **and shall serve** two **(2)** copies ~~of which shall be served~~ on the commission and one **(1)** copy ~~shall be served~~ on the counsel.

~~(b)~~ **(d)** Failure to **timely** file a petition ~~within the time provided shall be deemed a~~ **is considered** consent to the determination on the merits based upon the record filed by the commission.

~~(c)~~ **(e)** To the extent necessary ~~to implement this Section~~ and ~~if~~ not inconsistent ~~herewith,~~ **with this section,** the Indiana Rules of Appellate Procedure ~~shall be applicable~~ **apply** to reviews by the supreme court of commission proceedings.

SECTION 1543. IC 33-2.1-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-23] Sec. 30. ~~Jurisdiction and Powers.~~ The commission ~~shall have such~~ **has** jurisdiction and powers ~~as are~~ necessary to conduct the proper and speedy disposition of any investigation or hearing, including the ~~power~~ **powers** to ~~compel the attendance of~~ **depose** witnesses ~~to take or cause to be taken the deposition of witnesses~~ and to order the production of ~~books, records or other~~ documentary evidence. ~~Any~~ **A** member of the commission ~~and any~~ **or a** master ~~shall have the power to~~ **may** administer oaths ~~and affirmations~~ to witnesses in ~~any~~ **a** matter ~~within~~ **under** the **commission's** jurisdiction. ~~of the Commission.~~

SECTION 1544. IC 33-2.1-5-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-24] Sec. 31. ~~Subpoenas. Subpoenas for the attendance of witnesses and the production of documentary evidence in any proceeding shall be issued as follows: (a) Masters. Subpoenas for the attendance of witnesses and production of documentary evidence before masters, or for discovery in a proceeding before masters, shall be issued by any one of the masters appointed to hear the matter and shall be served in the manner provided by law for the service of process.~~

~~(b) Judicial Qualifications Commission. Subpoenas for the attendance of witnesses and the production of documentary evidence before the Commission, or for discovery in a proceeding where masters have not been appointed, shall be issued by the chairman of the Commission and shall be served in the manner provided by law for the service of process.~~ **(a) A master may issue a subpoena for:**

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.

(b) The chairperson of the commission may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the commission in which masters have not been appointed. The chairperson shall serve the subpoena in the manner provided by law.

SECTION 1545. IC 33-2.1-5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-25] Sec. 32. ~~Contempt. Where in any proceeding before the Commission, any witness shall fail or refuse to attend upon subpoena issued by the Commission or any of their representatives, or appearing, shall refuse to testify or shall refuse to produce any books and papers the production of which is called for by the subpoena, the attendance of any witness and the giving of his testimony and the production of the books and papers required shall be enforced by any circuit court of this state.~~ **If a witness in a commission proceeding:**

(1) fails or refuses to attend upon subpoena; or

(2) refuses to testify or produce documentary evidence demanded by subpoena;

a circuit court may enforce the subpoena.

SECTION 1546. IC 33-2.1-5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-26] Sec. 33. ~~Filing.~~ All papers and pleadings filed with the ~~chairman~~ **office of the chairman** of the commission ~~at his office shall be~~ **are** considered filed with the commission.

SECTION 1547. IC 33-2.1-5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-27] Sec. 34. ~~Pre-Trial Procedure and Hearings.~~ (a) In all formal proceedings, discovery ~~shall be~~ **is** available to the commission and ~~to~~ the judge **or justice** ~~in accordance with~~ **under** the Indiana Rules of Civil Procedure. ~~Any motions~~ **A motion** requesting ~~court orders for~~ **a** discovery ~~shall~~ **order must** be made to the circuit court judge in the county in which ~~a~~ **the** commission hearing is held.

(b) In all formal proceedings, ~~before the commission or masters,~~ the counsel shall ~~furnish~~ **provide the following** to the judge **or justice** ~~not less than~~ **at least** twenty (20) days ~~prior to any~~ **before the** hearing: ~~the following:~~

~~(1.)~~ **(1)** The names and addresses of all witnesses whose

testimony the counsel expects to offer at the hearing. ~~together with~~

(2) Copies of all written statements and transcripts of testimony of ~~such~~ witnesses **described in subdivision (1) that:**

(A) are in the possession of the counsel or the commission; ~~which are~~

(B) are relevant to the ~~subject matter of the~~ hearing; and ~~which~~

(C) have not previously been ~~furnished~~ **provided to** the judge.

~~(2.)~~ **(3)** Copies of all documentary evidence ~~which~~ **that** the counsel expects to offer in evidence at the hearing.

(c) Upon objection of the justice or judge, the following are not admissible in a hearing:

(1) The testimony of ~~any~~ **a** witness whose name and address ~~has~~ **have** not been ~~so~~ furnished to the judge ~~and~~ **or justice under subsection (b).**

(2) Documentary evidence ~~copies of which have~~ **that has** not been ~~so~~ furnished to the judge ~~as provided above, shall not be admissible in evidence at said hearing over the objection of the judge.~~ **or justice under subsection (b).**

(d) After formal proceedings have been instituted, the **justice or** judge may request in writing that the counsel furnish to the **justice or** judge the names and addresses of all witnesses ~~then or thereafter~~ known **at any time** to the counsel who have information ~~which~~ **that** may be relevant to ~~any~~ **a** charge against ~~the judge and to any~~ **or a** defense of the **justice or** judge. ~~with respect thereto.~~ The counsel shall ~~also furnish~~ **provide to the justice or judge** copies of ~~such written statements, transcripts of testimony and~~ documentary evidence ~~as are then or thereafter~~ **that:**

(1) are known **at any time** to the counsel ~~and are then or thereafter~~ **or** in the possession **at any time** of the counsel or the commission; ~~which~~

(2) are relevant to ~~any such charges~~ **a charge against** or defense **of the justice or judge;** and ~~which~~

(3) have not previously been ~~furnished~~ **provided to** the **justice or** judge.

The counsel shall comply with ~~such~~ **a** request ~~within~~ **under this subsection not more than** ten (10) days after ~~receipt of such~~ **receiving the** request and ~~thereafter within~~ **not more than** ten (10) days after ~~any such~~ **the counsel becomes aware of the** information or evidence. ~~shall become known to the counsel.~~

~~(c)~~ **(e)** During the course of an investigation by the commission, the **justice, or** judge whose conduct is being investigated ~~can~~ **may** demand in writing that the commission: ~~either~~

(1) institute formal proceedings against ~~him~~ **the justice or judge;** or

(2) enter a formal finding that there is not probable cause to believe that ~~he~~ **the justice or judge** is guilty of any misconduct. ~~and~~

The commission shall ~~within~~ **comply with a request under this subsection not more than** sixty (60) days after ~~such demand comply therewith.~~ **receiving the request.** A copy of ~~such demand~~ **the request** shall be filed ~~in~~ **with** the supreme court. ~~and shall be a matter of public record.~~ If ~~after such demand~~ the commission finds that there is not probable cause, ~~such~~ **the commission shall file the** finding ~~shall be filed in~~ **with** the supreme court. ~~of Indiana and be~~ **A document filed with the supreme court under this subsection is** a matter of public record. [QUERY: IT IS UNCLEAR WHO SHOULD FILE THE REQUEST AND FINDINGS WITH THE SUPREME COURT.]

SECTION 1548. IC 33-2.1-5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-5-28] Sec. 35. ~~Exclusion. Nothing in~~ This ~~article nor in the procedure herein established shall be construed to authorize any encroachment~~ **chapter does not encroach** upon or ~~impairment of any~~ **impair the** vested rights of a **justice or** judge or **the** surviving spouse of a **justice or** judge ~~now or hereafter existing~~ under any constitutional or statutory retirement program.

Chapter 14. The Judicial Qualifications Commission and the Discipline of Judges of Superior, Probate, Juvenile, and Criminal Courts

SECTION 1549. IC 33-2.1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-1] Sec. 1. ~~Purpose.~~ It is the purpose of this chapter to provide that judges of superior, probate, juvenile, or criminal courts in ~~certain~~ counties ~~as set forth~~ **described** in section ~~3~~ **???** of this chapter ~~shall be~~ **are** subject to disciplinary action ~~for~~ **on** the grounds and in the manner set forth in this chapter. ~~It is the further purpose of this chapter to provide that the commission on judicial qualifications for the supreme court and court of appeals and the members thereof, shall constitute the commission on judicial qualifications for judges of superior, probate, juvenile, and criminal courts in certain counties as set forth in section three of this chapter.~~[QUERY: CIRCUIT COURTS ARE NOT MENTIONED. CRIMINAL COURTS WERE ABOLISHED IN 1978.]

[33-2.1-1-3(7)] Sec. 2. ~~(7)~~ **As used in this chapter,** "commission" ~~on judicial qualifications"~~ means the commission **on judicial qualifications** described in Article 7, Section 9 of the Constitution of the State of Indiana.

[33-2.1-1-3(13)] Sec. 3. ~~(13)~~ **As used in this chapter,** "counsel"

means the lawyer designated by the commission to:

(1) gather and present evidence before the masters or commission with respect to the charges against a judge; and ~~to~~

(2) represent the commission before the supreme court in connection with any proceedings before the court.

SECTION 1550. IC 33-2.1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-2 part] Sec. 4. ~~The commission on judicial qualifications created by Article 7, Section 9 of the Constitution of Indiana shall be the commission on judicial qualifications for judges of superior and probate courts in certain counties as set forth in section 3 of this chapter and the members of the commission on judicial qualifications for the court of appeals and supreme court shall serve as the members of the commission on judicial qualifications for judges of superior and probate courts. The definitions to be used in the operation of the commission on judicial qualifications shall be the same as those definitions used for the commission on judicial qualifications for the supreme court and court of appeals. Provided That, the term~~ **As used in this chapter,** "judge" ~~shall mean~~ **means** a judge of a superior or probate court. [QUERY: SEE APPLICATION LANGUAGE IN SEC. 1. WHAT ABOUT JUVENILE AND CRIMINAL COURTS? WHAT ABOUT CIRCUIT COURTS?]

[33-2.1-1-3(15)] Sec. 5. ~~(15)~~ **As used in this chapter,** "mail" ~~and "mailed" include~~ **includes** ordinary mail or personal delivery.

[33-2.1-1-3(11)] Sec. 6. ~~(11)~~ **As used in this chapter,** "masters" means the special masters appointed by the chief justice upon request of the commission.

[33-2.1-1-3(12)] Sec. 7. ~~(12)~~ **As used in this chapter,** "presiding master" means the master so designated by the chief justice or, in the absence of ~~such~~ **a** designation, the justice or judge named in the order appointing masters.

SECTION 1551. IC 33-2.1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-2] Sec. 8. The commission on judicial qualifications created by Article 7, Section 9 of the Constitution of **the State of** Indiana ~~shall be~~ **is** the commission on judicial qualifications for judges of superior and probate courts [????] in ~~certain~~ **the** counties ~~as set forth~~ **described** in section ~~3~~ **9** of this chapter. ~~and~~ The members of the commission on judicial qualifications for the court of appeals and **the** supreme court ~~shall serve as~~ **are** the members of the commission on judicial qualifications for judges of **the** superior and probate courts. ~~The definitions to be used in the operation of the commission on judicial qualifications shall be the same as those definitions used for the commission on judicial qualifications for the supreme court and court of appeals. Provided that,~~

~~the term "judge" shall mean a judge of a superior or probate court.~~

SECTION 1552. IC 33-2.1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-3] Sec. 9. **(a)** The commission ~~on judicial qualifications created pursuant to section 2 of this chapter~~ shall exercise disciplinary jurisdiction over judges. ~~of superior and probate courts; Provided That,~~

(b) In ~~any~~ **a** county ~~of this state where~~ **in which** a commission on judicial qualifications ~~was in operation~~ **operated** by virtue of law before July 26, 1973, the **county** commission on judicial qualifications ~~shall cease~~ **ceases** to exercise disciplinary jurisdiction ~~concerning~~ **over** the **county** courts ~~of any such county~~ and ~~such jurisdiction shall be exercised by~~ the commission on judicial qualifications ~~created pursuant to section 2 of this chapter~~. ~~Provided However That, wherever~~ **described in Article 7, Section 9 of the Constitution of the State of Indiana shall exercise disciplinary jurisdiction. However, if** the law creating a **county** commission on judicial qualifications in ~~any~~ **a** county ~~of this state~~ before July 26, 1973, precluded judges subject to its disciplinary jurisdiction from participating in political activities ~~due to the fact that said~~ **because the** judges are selected by a merit ~~selection~~ system, ~~said~~ **the** judges ~~shall continue to be~~ **are** precluded from ~~such participation as if such activity were grounds for removal pursuant to this chapter; and Provided Further That, the~~ **participating in political activities.**

(c) The operation and function of a judicial nominating ~~commissions in operation~~ **commission operating** in ~~any~~ **a** county ~~of this state~~ by virtue of law before July 26, 1973, ~~shall~~ **is** not ~~be in any way~~ affected ~~in their operation or function.~~ **by this chapter.** [QUERY: HOW MUCH OF THIS IS STILL NEEDED?]

SECTION 1553. IC 33-2.1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-4] Sec. 10. ~~Grounds for Removal. Each~~ **(a) A** judge ~~of those courts included in section 3 of this chapter shall be~~ **is** disqualified from acting as a judicial officer, without loss of salary, while there is pending:

(1) an indictment or information charging ~~him~~ **the judge** in ~~any court in the~~ **a** United States **court** with a crime punishable as a felony under ~~the laws of~~ Indiana or ~~the United States,~~ **federal law;** or

(2) a recommendation to the supreme court by the commission ~~on judicial qualifications~~ for ~~his~~ **the judge's** removal or retirement.

(b) On recommendation of the commission ~~on judicial qualifications~~ or on its own motion, the supreme court may suspend ~~such~~ **a** judge from office without salary ~~when~~ **if** in ~~any court in the~~ **a** United States ~~he~~ **court the judge** pleads guilty or no contest or is found guilty of a crime **that:**

(1) is punishable as a felony under ~~the laws of~~ Indiana or ~~the United States, or of any other crime that~~ **federal law; or**

(2) involves moral turpitude under the law.

If ~~his~~ **the judge's** conviction is reversed, **the** suspension terminates and ~~he~~ **the judge** shall be paid ~~his~~ **the judge's** salary for the period of suspension. If ~~he is suspended and his~~ **the judge's** conviction becomes final, the supreme court shall remove ~~him~~ **the judge** from office.

(c) On ~~recommendations~~ **recommendation** of the commission, ~~on judicial qualifications,~~ the supreme court may:

(1) retire ~~such~~ **a** judge for **a** disability that:

(A) seriously interferes with the performance of ~~his~~ **the judge's** duties; and

(B) is or is likely to become permanent; and

(2) censure or remove ~~such~~ **a** judge for **an** action ~~occurring~~ **that:**

(A) occurs not more than six (6) years ~~prior to~~ **before** the ~~commencement~~ **beginning** of ~~his~~ **the judge's** current term; ~~when such action~~ **and**

(B) constitutes **at least one (1) of the following:**

(i) Willful misconduct in office.

(ii) Willful or persistent failure to perform ~~his~~ **the judge's** duties.

(iii) Habitual intemperance. ~~or~~

(iv) Conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

A judge ~~so~~ retired ~~by the Supreme Court shall be~~ **under this subsection is** considered to have retired voluntarily. A judge ~~so~~ removed ~~by the Supreme Court~~ **under this subsection** is ineligible for judicial office and, pending further order of the **supreme** court, ~~he~~ is suspended from the practice of law in ~~this state.~~ **Indiana.**

SECTION 1554. IC 33-2.1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-5] Sec. 11. ~~Meeting of Commissioners.~~ (a) The commission ~~on judicial qualifications~~ shall meet ~~from time to time~~ as ~~may be~~ necessary to discharge its statutory responsibilities. Meetings of the commission ~~on judicial qualifications~~ shall be called in the ~~same~~ manner ~~as prescribed for the judicial nominating commission of the supreme court and court of appeals. A quorum for the transaction of business shall be~~ **set forth in IC 33-2.1-4 ????.** Four (4) members of the commission **constitute a quorum.**

(b) **Commission** meetings ~~of the Commission~~ are to be held ~~at such place~~ in Indiana ~~as~~ **on** the ~~chairman of the Commission may arrange.~~ **call of the chairperson.**

(c) The commission ~~shall~~ **may** act only at a meeting. The commission ~~shall have the power to~~ **may** adopt ~~reasonable and proper~~

rules and regulations ~~for the~~ **to** conduct ~~of~~ its meetings and ~~the~~ discharge ~~of~~ its duties.

SECTION 1555. IC 33-2.1-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-6] Sec. 12. ~~Confidentiality of Proceedings. All~~ **(a)** Papers filed with and proceedings before the commission ~~prior to~~ **before** the institution of formal proceedings ~~as provided herein, shall be~~ **are** confidential unless:

(1) the judge against whom a recommendation ~~has been~~ **is** filed elects to have ~~such~~ **the** information divulged; or ~~unless~~

(2) the commission elects to answer ~~publicly disseminated~~ **public** statements ~~issued~~ by ~~any~~ **a** complainant. ~~All~~

(b) Papers filed with the commission ~~at the time of, and~~ **during or** after the institution of formal proceedings ~~shall be~~ **are** open for public inspection at all reasonable times. Records of commission proceedings ~~shall be~~ **are** open for public inspection at all reasonable times. All hearings and proceedings before the commission, ~~shall,~~ after the institution of formal proceedings, ~~be~~ **are** open to the public.

SECTION 1556. IC 33-2.1-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-7] Sec. 13. ~~Defamatory Material. The~~ Filing ~~of~~ papers with or ~~the~~ giving ~~of~~ testimony before the commission or ~~before~~ the masters ~~appointed by the Supreme Court pursuant to~~ **under** this chapter ~~shall be~~ **is** privileged.

SECTION 1557. IC 33-2.1-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-8] Sec. 14. ~~Commission; Complaint.~~ **(a)** Any citizen of ~~the state of~~ Indiana may file with the commission ~~on Judicial Qualifications~~ a **written and verified** complaint on the judicial fitness of a judge of a superior, [criminal, ???] juvenile, or probate court of ~~this state. Complaints directed to the Commission or to any member of the Commission concerning a judge subject to the disciplinary jurisdiction of the Commission on Judicial Qualifications created pursuant to this chapter shall be in writing and verified. No~~ **Indiana.**

(b) A specified form of complaint ~~shall~~ **may not** be required.

SECTION 1558. IC 33-2.1-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-9] Sec. 15. ~~Request of Justice or Judge to Retire; Complaint by Citizen or on Commission's Own Motion; Investigation.~~ (a) ~~Any~~ **A** judge may request ~~that he be retired because of~~ **retirement due to** disability.

(b) ~~Any~~ **A** citizen of ~~the state of~~ Indiana ~~shall have the right at all times to~~ **may** complain to the commission ~~on Judicial Qualifications with reference to~~ **about** the activities, fitness, or qualifications of a judge. Upon receipt of ~~any such~~ **a** complaint, ~~or request,~~ the commission shall ~~make such initial inquiry as is necessary to~~ determine

if ~~a~~ **the** complaint is ~~founded and not~~ frivolous. The commission ~~without receiving a complaint,~~ may, ~~take such an initial inquiry~~ on its own motion, **inquire into the activities, fitness, or qualifications of a judge.**

(c) If the commission ~~deems~~ **determines** it **is** necessary ~~as the result of its initial inquiry,~~ to ~~conduct an investigation~~ **investigate a judge, the commission shall notify** the judge ~~involved shall then be notified~~ **by prepaid registered or certified mail addressed to the judge at the judge's chambers and last known residence** of **the following:**

(1) The investigation.

(2) The nature of the ~~charge, and~~ **complaint.**

(3) The **origin of the complaint, including the** name of the ~~person making the complaint, if any~~ **complainant** or that the investigation is on the commission's ~~own~~ motion. ~~and shall be afforded reasonable~~

(4) The opportunity **to present** in the court of the investigation ~~to present such~~ matters as ~~he may choose. Such notice shall be given by pre-paid registered or certified mail addressed to the judge at his chambers and at his last known address. If the investigation does not disclose sufficient cause to warrant further proceedings the judge shall be so notified.~~ **the judge chooses.**

(d) The commission ~~shall have the power to make~~ **may do the following:**

(1) Conduct investigations. ~~by members of the Commission or by~~

(2) Employ special investigators. ~~employed by the Commission, to~~

(3) Hold confidential hearings with ~~his or their~~ **the judge's or commission's** agents or attorneys. ~~and to~~

(4) Hold confidential hearings with ~~the~~ **any** judge ~~or judges~~ involved.

~~(d)~~ **(e)** If:

(1) the commission's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings; and ~~if~~

(2) the complainant subsequently issues any **public** statement ~~or statements for public dissemination~~ relating to the activities or actions of the commission;

the commission ~~shall have the right to~~ **may** answer ~~such~~ **the** statement ~~or statements~~ by ~~reference~~ **referring** to ~~so much of~~ the record of ~~its~~ proceedings or **the** results of **the** investigations. ~~as it deems necessary.~~

SECTION 1559. IC 33-2.1-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-10] Sec. 16. ~~Notice of Formal Proceedings.~~ (a) ~~After the investigation has been completed,~~ If the commission ~~concludes that~~ **decides to institute** formal proceedings, ~~should be instituted it~~ **the commission** shall give

written notice to the judge advising ~~him~~ **the judge** of the institution of formal proceedings to inquire into the charges against ~~him. Such~~ **judge. The** proceedings ~~shall~~ **must** be entitled:

"BEFORE THE INDIANA JUDICIAL QUALIFICATIONS COMMISSION

Inquiry Concerning a Judge, No. _____".

(b) The notice ~~shall be issued in the name of the Commission and~~ **must:**

(1) specify in ordinary and concise language the charges against the judge and the alleged facts upon which ~~such~~ **the** charges are based; and ~~shall~~

(2) advise the judge of ~~his~~ **the judge's** right to file a written answer ~~to the charges against him within~~ **not more then** twenty (20) days after service of notice. ~~upon him. No~~

A charge ~~shall be~~ **is not** sufficient if it ~~merely~~ recites the general language of the original complaint. ~~but must specify the facts relied upon to support a particular charge.~~

(c) The notice shall be made upon the judge by registered or certified mail addressed to the judge at ~~his~~ **the judge's** chambers and ~~at his~~ last known residence.

SECTION 1560. IC 33-2.1-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-11] Sec. 17. ~~Answer. Within~~ **Not more than** twenty (20) days after service of the notice of formal proceedings, the judge:

(1) may file with the commission a signed original and one (1) copy of an answer; and

(2) shall serve **by mail** a copy **of the answer** on the counsel. ~~by mail.~~

SECTION 1561. IC 33-2.1-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-12] Sec. 18. ~~Setting for Hearing before Commission or Masters.~~ **(a)** Upon the filing of **or the expiration of the time for filing** an answer, ~~or upon the expiration of the time for its filing,~~ the commission shall:

(1) order a hearing ~~to be held~~ before ~~it concerning~~ **the commission on** the discipline, retirement, or removal of the judge; or ~~shall~~

(2) request the supreme court to appoint three (3) **active or retired judges of courts of record as** special masters ~~who shall be active or retired justices or judges of courts of record~~ to hear and take evidence ~~in such~~ **on the** matter and to report ~~thereon~~ to the commission.

(b) The commission shall:

(1) set a time and place in the state [QUERY: State or county?] in which the judge involved resides for a hearing; ~~before itself or~~

~~before the master,~~ and ~~shall give~~

(2) mail notice of ~~such~~ **the** hearing ~~by mail~~ to the judge, the masters, and ~~to~~ the counsel at least twenty (20) days ~~prior to~~ **before** the **hearing** date. ~~set.~~

SECTION 1562. IC 33-2.1-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-13] Sec. 19. ~~Hearing.~~ (a) ~~At the time and place set for hearing,~~ The commission, or the masters when the hearing is before the masters, may proceed with the hearing whether or not the judge ~~has filed~~ **files** an answer or appears at the hearing.

(b) The failure of ~~the~~ **a** judge to answer or to appear at the hearing ~~standing alone, shall~~ **by itself is** not ~~be taken as~~ evidence of the facts alleged ~~or~~ **and does not** constitute grounds for censure, retirement, or removal. In ~~any~~ **a** proceeding for involuntary retirement for disability, the failure of ~~the~~ **a** judge to testify in ~~his~~ **the judge's** own behalf or to submit to a medical examination requested by the commission or the masters may be considered, unless ~~it appears that such~~ **the** failure was due to circumstances beyond ~~his~~ **the judge's** control.

(c) The ~~proceedings at the~~ hearing shall be reported verbatim.

(d) ~~When the~~ **At a** hearing ~~is~~ before the commission, not less than four (4) members ~~shall~~ **must** be present when the evidence is produced.

SECTION 1563. IC 33-2.1-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-14] Sec. 20. ~~Evidence.~~ **The Indiana Rules of Evidence apply** at a hearing before the commission or **the** masters. ~~the evidentiary rules of the courts of this state shall apply.~~

SECTION 1564. IC 33-2.1-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-15] Sec. 21. (a) In formal proceedings involving the ~~judge's~~ discipline, retirement, or removal **of** a judge, ~~shall have the right and reasonable opportunity to~~ **the judge may:**

(1) defend against the charges by ~~the introduction of~~ **introducing** evidence; ~~to~~

(2) be represented by counsel; ~~and to~~

(3) examine and cross-examine witnesses; ~~The judge shall also have the right to the issuance of~~ **and**

(4) issue subpoenas for attendance of witnesses to testify or produce ~~books, papers, and other~~ evidentiary matter.

(b) ~~When a transcript of the~~ **If** testimony ~~has been prepared~~ **is transcribed** at the expense of the commission, a copy shall be ~~furnished without cost~~ **provided** to the judge **at no cost.** The judge ~~has the right, without any order or approval, to~~ **is entitled to** have ~~all or any portion of the~~ testimony ~~in the proceedings~~ transcribed at the judge's expense.

(c) Except as otherwise provided in this chapter, ~~whenever these rules provide for giving~~ **any** notice or ~~sending any~~ matter **sent** to the judge ~~the notice or matter~~ shall be mailed by registered or certified mail to the judge at the judge's office and residence unless the judge requests otherwise in writing. ~~and~~ A copy ~~is~~ **of the notice or matter shall be** mailed to the judge's ~~attorney of record.~~ **counsel.**

(d) If ~~the~~ **a** judge has been ~~adjudged~~ **adjudicated** incapacitated under IC 29-3, the **judge's** guardian may ~~claim and~~ exercise any right ~~and~~ **or** privilege and make any defense for the judge ~~with the same force and effect~~ as if ~~claimed,~~ exercised or made by the judge. ~~if competent, and whenever these rules provide for serving or giving~~ **If any** notice or ~~sending any~~ matter **is sent** to the judge, a copy of the notice or matter also shall be ~~served, given, or~~ sent to the **judge's** guardian.

SECTION 1565. IC 33-2.1-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-16] Sec. 22. ~~Amendments to Notice or Answer.~~ The masters, ~~at any time prior to~~ **before** the conclusion of the hearing, or the commission, ~~at any time prior to~~ **before** its determination, may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts. ~~whether occurring before or after the commencement of the hearing. In case such~~ **If** an amendment is made, the judge shall be given reasonable time ~~both~~ to answer the amendment and to prepare and present ~~his~~ **a** defense. ~~against the matters charged thereby.~~

SECTION 1566. IC 33-2.1-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-17] Sec. 23. ~~Report of Masters.~~ (a) After ~~the conclusion of the~~ **a** hearing before the masters, ~~they~~ **the masters** shall promptly ~~prepare and~~ transmit to the commission **an original and four (4) copies of:**

(1) a transcript of the hearing; and

(2) a report ~~which shall contain~~ **that contains** a brief statement of the proceedings and ~~their~~ recommended findings of fact. ~~with respect to issues presented by the notice of formal proceedings and the answer thereto, or if there be no answer, their recommended findings of fact with respect to the allegations in the notice of formal proceedings.~~

The recommended findings of facts ~~by the masters shall~~ **are** not ~~be~~ binding ~~upon~~ **on** the commission. ~~even though supported by substantial competent evidence. An original and four (4) copies of the report shall be submitted which shall be accompanied by an original and four (4) copies of a transcript of the proceedings before the masters.~~

(b) Upon receiving the report of the masters, the commission shall promptly mail a copy of the report and transcript to the judge and ~~also~~

~~to~~ the **judge's** counsel.

SECTION 1567. IC 33-2.1-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-18] Sec. 24. ~~Objections to Report of Masters.~~ (a) ~~Within~~ **Not more than** fifteen (15) days after ~~mailing of the~~ **a** copy of the report of masters **is mailed** to the judge, the counsel or the judge may file with the commission an original and one (1) copy of objections to the report of masters. ~~setting forth objections to the report and reasons in opposition to the recommended findings. A copy of objections filed by the counsel shall be sent by the counsel by mail to the judge. A copy of objections filed by the judge shall be sent by the judge by mail to the counsel.~~ **If the counsel files objections, the counsel shall mail a copy of the objections to the judge. If the judge files objections, the judge shall mail a copy of the objections to the counsel.**

SECTION 1568. IC 33-2.1-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-19] Sec. 25. ~~Appearance before Commission.~~ If ~~no~~ objections to the report of masters are **not timely** filed, ~~within the time provided,~~ the commission may adopt the recommended findings of the masters without a hearing. If ~~such~~ objections are **timely** filed, or if **objections are not timely filed and** the commission ~~in the absence of such objections~~ proposes to modify or reject the recommended findings of the masters, the commission shall give the judge and the counsel an opportunity to be heard ~~orally before the Commission, and~~ **in the county where the judge resides. The commission shall mail to the judge and the counsel** written notice of the time and ~~the~~ place of the hearing ~~in the county in which the judge resides. shall be mailed to the judge and to the counsel at least ten (10) days prior thereto.~~ **not less than ten (10) days before the hearing.**

SECTION 1569. IC 33-2.1-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-20] Sec. 26. ~~Extension of Time.~~ **(a)** The ~~chairman~~ **chairperson** of the commission may extend the time for:

(1) filing an answer; ~~for the commencement of~~

(2) commencing a hearing before the commission; ~~and for~~ **or**

(3) filing objections to the report of the masters. ~~and~~

(b) The presiding master, with the approval of the ~~chairman~~ **chairperson** of the commission, may extend the time for ~~the commencement of~~ **commencing** a hearing before **the** masters.

SECTION 1570. IC 33-2.1-6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-21] Sec. 27. ~~Hearing Additional Evidence.~~ **(a)** The commission may order a hearing ~~for the taking of~~ **to take** additional evidence at any time while the matter is pending before ~~it.~~ **the commission.** The order ~~shall~~ **must** set

the time and place of the hearing in the county in which the judge resides and ~~shall~~ **must** indicate the matters on which ~~the~~ evidence ~~is to~~ **will** be taken. A copy of ~~such~~ **the** order shall be ~~sent by mail~~ **mailed** to the judge and ~~to~~ the counsel at least ten (10) days ~~prior to~~ **before** the ~~date of~~ hearing.

~~In any case in which~~ **(b) If** masters have been appointed, the hearing of additional evidence ~~shall be~~ **is** before ~~such~~ **the** masters ~~and the proceedings therein shall be~~ in ~~conformance~~ **accordance** with ~~the provisions of~~ this chapter.

SECTION 1571. IC 33-2.1-6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-22] Sec. 28. ~~Commission Vote.~~ If the commission finds good cause, it shall recommend to the supreme court the discipline, retirement, or removal of ~~the~~ **a** judge. ~~When the~~ **If a** hearing ~~was held~~ **is** before **the** masters, the affirmative vote of four (4) **commission** members ~~of the Commission~~ is required ~~for a recommendation of discipline,~~ **to recommend the discipline,** retirement, or removal of a judge. ~~When the~~ **If a** hearing ~~was held~~ **is** before the commission, ~~without masters~~ the affirmative vote of four (4) **commission** members, ~~of the Commission,~~ including a majority of ~~those who were~~ **the members** present at the hearing, ~~or hearings when the evidence was produced,~~ is required ~~for a recommendation of discipline,~~ **to recommend the discipline,** retirement, or removal of a judge.

SECTION 1572. IC 33-2.1-6-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-23] Sec. 29. ~~Record of Commission Proceedings.~~ The commission shall keep a record of all formal proceedings concerning a judge. The ~~commission's determination~~ **commission** shall ~~be entered~~ **enter its determination** in the record and **mail** notice ~~thereof shall be mailed~~ to the judge and ~~to~~ the counsel. ~~In all formal proceedings resulting in a recommendation~~ **If the commission recommends the discipline, retirement, or removal of a judge** to the supreme court, ~~for discipline, retirement or removal,~~ the commission shall prepare a transcript of the evidence and ~~of all~~ proceedings ~~therein~~ and shall make written findings of fact and conclusions of law. ~~with respect to the issues of fact and law in the proceedings.~~

SECTION 1573. IC 33-2.1-6-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-24] Sec. 30. ~~Certification of Commission Recommendation to Supreme Court.~~ Upon ~~making a determination~~ recommending the discipline, retirement, or removal of a judge, the commission shall ~~promptly~~ file a copy of **each of the following with the clerk of the supreme court:**

(1) The recommendation certified by the ~~chairman~~ **chairperson** or secretary of the commission. ~~together with~~

(2) The transcript. ~~and~~

(3) The findings **of fact** and conclusions ~~with the clerk of the Supreme Court and~~ **of law.**

The commission shall ~~promptly~~ mail to the judge and ~~to~~ the counsel notice of ~~such~~ **the** filing ~~together with a copy of such recommendation findings and conclusions.~~ **and copies of the filed documents.**

SECTION 1574. IC 33-2.1-6-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-25] Sec. 31. ~~Review of Commission Proceedings.~~ (a) A **judge may** petition ~~to~~ the supreme court to modify or reject the recommendation of the commission for discipline, retirement, or removal of ~~a~~ **the** judge ~~may be filed by the judge within~~ **not more than** thirty (30) days after the ~~filing~~ **certified copy of the commission's recommendation is filed** with the clerk of the supreme court. ~~of the certified copy of the Commission's recommendation. The~~

(b) A petition **described in subsection (a)** ~~shall.~~ **must:**

(1) be verified; ~~shall~~

(2) be based on the record; ~~shall~~

(3) specify the grounds relied on; and ~~shall~~

(4) be accompanied by **the** petitioner's brief ~~together with~~ **and** proof of service **of two (2) copies of the petition and brief** on the commission ~~of two (2) copies~~ and ~~on the counsel of~~ one (1) copy of the petition and ~~the~~ brief ~~Within~~ **on the counsel.**

(c) Not more than twenty (20) days after service of petitioner's brief, the commission shall file a respondent's brief and serve a copy ~~thereof~~ **of the brief** on the judge. ~~Within~~

(d) Not more than twenty (20) days after service of respondent's brief, the ~~petitioner~~ **judge** may file a reply brief. **The judge shall serve** two (2) copies of ~~which shall be served~~ **the reply brief** on the commission and one (1) copy ~~shall be served~~ **of the reply brief** on the counsel.

~~(b)~~ **(e)** Failure to **timely** file a petition ~~within the time provided shall be deemed a~~ **is considered** consent to the determination on the merits based ~~upon~~ **on** the record filed by the commission.

~~(c)~~ **(f)** To the extent necessary ~~to implement this section~~ and ~~if~~ not inconsistent ~~herewith,~~ **with this section,** the Indiana Rules of Appellate Procedure ~~shall be applicable~~ **apply** to reviews by the supreme court of commission proceedings.

SECTION 1575. IC 33-2.1-6-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-26] Sec. 32. ~~Jurisdiction and Powers.~~ The commission ~~shall have such~~ **has** jurisdiction and powers ~~as are necessary~~ to ~~conduct the proper and speedy disposition~~ **dispose** of any investigation or hearing, including **the following:**

(1) The power to compel the attendance of witnesses.

(2) The power to ~~take or cause to be taken the deposition of~~ **depose** witnesses. ~~and~~

(3) The power to order the production of ~~books, records or other~~ documentary evidence.

Any **commission** member ~~of the Commission and~~ **or** any master ~~shall have the power to~~ **may** administer oaths and affirmations to witnesses in ~~any~~ **a** matter ~~within~~ **under** the jurisdiction of the commission.

SECTION 1576. IC 33-2.1-6-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-27] Sec. 33. ~~Subpoenas. Subpoenas for the attendance of witnesses and the production of documentary evidence in any proceedings shall be issued as follows:~~

(a) ~~Masters. Subpoenas for the attendance of witnesses and production of documentary evidence before masters, or for discovery in a proceeding before masters, shall be issued by any one of the masters appointed to hear the matter and shall be served in the manner provided by law for the service of process.~~ **A master may issue a subpoena for:**

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before masters. The master shall serve the subpoena in the manner provided by law.

(b) ~~Judicial Qualifications Commission. Subpoenas for the attendance of witnesses and the production of documentary evidence before the Commission, or for discovery in a proceeding where masters have not been appointed, shall be issued by the chairman of the Commission and shall be served in the manner provided by law for the service of subpoena.~~ **The chairperson of the commission may issue a subpoena for:**

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the commission or in which masters have not been appointed. The chairperson shall serve the subpoena in the manner provided by law.

SECTION 1577. IC 33-2.1-6-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-28] Sec. 34. ~~Contempt. Where in any proceeding before the Commission, any witness shall fail or refuse to attend upon a subpoena issued by the Commission or any of their representatives, or appearing, shall refuse to testify or to produce any books and papers the production of which is called for by the subpoena, the attendance of any witness and the giving of testimony and the production of the books and papers~~

~~required shall be enforced by any circuit court of this state.~~ **If a witness in a commission proceeding:**

(1) fails or refuses to attend upon subpoena; or

(2) refuses to testify or produce documentary evidence demanded by subpoena;

a circuit court may enforce the subpoena.

SECTION 1578. IC 33-2.1-6-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-29] Sec. 35. ~~Filing.~~ All papers and pleadings filed with **the office of** the ~~chairman~~ **chairperson** of the commission ~~at his office shall be~~ **are** considered filed with the commission.

SECTION 1579. IC 33-2.1-6-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-2.1-6-30] Sec. 36. ~~Pre-Trial Procedure and Hearings.~~ (a) In all formal proceedings, discovery ~~shall be~~ **is** available to the commission and ~~to~~ the judge ~~in accordance with~~ **under** the Indiana Rules of Civil Procedure. ~~Any motions~~ **A motion** requesting ~~court orders for~~ **a** discovery ~~shall~~ **order must** be made to the circuit court ~~judge~~ in the county in which ~~a~~ **the** commission hearing is held.

(b) In all formal proceedings, ~~before the Commission or masters,~~ the counsel shall ~~furnish~~ **provide the following** to the judge ~~not less than~~ **at least** twenty (20) days ~~prior to any~~ **before a** hearing: ~~the following:~~

(1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing. ~~together with~~

(2) Copies of all written statements and transcripts of testimony of ~~such~~ witnesses **described in subdivision (1) that:**

(A) are in the possession of the counsel or the commission; ~~which~~

(B) are relevant to the ~~subject matter of the~~ hearing; and ~~which~~

(C) have not ~~previously~~ been ~~furnished~~ **provided to** the judge.

~~(2)~~ **(3)** Copies of all documentary evidence ~~which~~ **that** the counsel expects to ~~offer in evidence~~ **introduce** at the hearing.

(c) On objection by a judge, the testimony of ~~any~~ **a** witness whose name and address ~~has~~ **have** not been ~~so~~ furnished to the judge and documentary evidence ~~copies of which have~~ **that has** not been ~~so~~ furnished to the judge, ~~as provided above, shall~~ **are** not ~~be~~ admissible ~~in evidence~~ at ~~said~~ **a** hearing. ~~over the objection of the judge.~~

(d) After formal proceedings have been instituted, ~~the~~ **a** judge may request in writing that the counsel ~~furnish to~~ **provide** the judge the names and addresses of all witnesses ~~then or thereafter~~ known **at any time** to the counsel who have information ~~which~~ **that** may be relevant to any charge against **or any defense of** the judge. ~~and to any defense of the judge with respect thereto.~~ The counsel shall ~~also furnish~~ **provide** copies of ~~such~~ written statements, transcripts of testimony, and

documentary evidence ~~as~~ **that:**

(1) are ~~then or thereafter~~ in the **commission counsel's** possession ~~of the counsel of the Commission, which~~ **at any time;**

(2) are relevant to ~~any such~~ **a** charge **against** or defense **of the judge;** and ~~which~~

(3) have not ~~previously~~ been furnished to the judge.

The counsel shall comply with ~~such~~ **the** request ~~within~~ **not more than** ten (10) days after ~~receipt of such~~ **receiving the** request ~~and thereafter within~~ **or not more than** ten (10) days after any ~~such~~ information or evidence ~~shall become~~ **becomes** known to the counsel.

~~(c)~~ **(e)** During ~~the course of~~ an investigation by the commission, ~~the~~ **a** judge whose conduct is being investigated ~~can~~ **may** demand in writing that the commission ~~either~~ institute formal proceedings against ~~him~~ **the judge** or enter a formal finding that there is not probable cause to believe ~~that he~~ **the judge** is guilty of misconduct. ~~and~~ **Not more than sixty (60) days after receiving a written demand,** the commission shall ~~within sixty (60) days after such demand~~ comply ~~therewith.~~ **with the demand.** A copy of ~~such~~ **the** demand shall be filed in the supreme court and ~~shall be~~ **is** a matter of public record. If ~~after such demand,~~ the commission finds there is not probable cause, ~~such~~ **the** finding shall be filed in the supreme court ~~of Indiana~~ and ~~be~~ **is** a matter of public record.

SECTION 1580. IC 33-39 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 39. PROSECUTING ATTORNEYS

Chapter 1. Bond, Duty to Prosecute, Special Prosecutors, and Pretrial Diversion

SECTION 1581. IC 33-14-1-1.1, AS ADDED BY P.L.72-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-1-1.1] Sec. 1. (a) As used in this chapter, "senior prosecuting attorney" means a person who:

(1) was employed for at least eight (8) years as a prosecuting attorney or chief deputy prosecuting attorney; and

(2) files an affidavit requesting designation as a senior prosecuting attorney in the circuit court in a county in which the person is willing to serve as a senior prosecuting attorney.

(b) An affidavit filed under subsection (a) must contain the following:

(1) The name of the person filing the affidavit.

(2) The person's attorney number issued by the Indiana supreme court.

(3) The length of time the person served as a chief deputy prosecuting attorney or prosecuting attorney.

(4) The name of any county in which the person served as a chief deputy prosecuting attorney or prosecuting attorney.

(c) The circuit court shall promptly forward each affidavit received under this section to the prosecuting attorneys council of Indiana.

SECTION 1582. IC 33-14-1-1.5, AS ADDED BY P.L.254-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-1-1.5] Sec. 2. (a) This section does not apply to a deputy prosecuting attorney appointed by a prosecuting attorney or a special prosecutor appointed by a court.

(b) To be eligible to hold office as a prosecuting attorney, a person must be a resident of the judicial circuit that the person serves.

SECTION 1583. IC 33-14-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-1-2] Sec. 3. Every person elected to the office of prosecuting attorney, before entering upon the duties of ~~his~~ **the** office, shall execute a bond in the manner prescribed by IC 5-4-1.

SECTION 1584. IC 33-14-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-1-3] Sec. 4. **(a)** ~~Whenever any~~ **When a** prosecuting ~~or district~~ attorney ~~shall receive~~ **receives** information of the commission of ~~any~~ **a** felony or ~~such district attorney of the commission of any~~ misdemeanor, ~~he~~ **the prosecuting attorney** shall cause process to issue from a court **(except the circuit court)** having jurisdiction to issue the ~~same,~~ **process** ~~(except the circuit court,)~~ to the proper officer, directing ~~him~~ **the officer** to subpoena the persons ~~therein~~ named **in the process who are** likely to ~~be acquainted with~~ **have information concerning** the commission of ~~such~~ **the** felony or misdemeanor. ~~and~~ **The prosecuting attorney** shall examine ~~any~~ **a** person ~~so~~ subpoenaed before ~~such~~ **the** court ~~touching such~~ **that issued the process concerning the** offense. ~~and~~

(b) If the facts ~~thus~~ elicited **under subsection (a)** are sufficient to establish a reasonable presumption of guilt against the party charged, ~~said~~ **the** court shall: ~~cause: so much of said~~

(1) cause the testimony ~~as~~ **that** amounts to a charge of a felony or misdemeanor to be reduced to writing and subscribed and sworn to by ~~such~~ **the** witness; ~~whereupon such court shall cause~~ **and**

(2) ~~process to~~ issue **process** for the apprehension of the accused, as in other cases.

SECTION 1585. IC 33-14-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-1-4] Sec. 5. Except as provided in IC 12-15-23-6(d), the prosecuting attorneys, within their respective jurisdictions, shall:

(1) conduct all prosecutions for felonies, misdemeanors, or infractions and all suits on forfeited recognizances; ~~and~~

(2) superintend, on behalf of counties or any of the trust funds, all suits in which the ~~same~~ **the counties or trust funds** may be interested or involved; and ~~shall~~

(3) perform all other duties required by law.

SECTION 1586. IC 33-14-1-6, AS AMENDED BY P.L.72-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-1-6] Sec. 6. (a) Special prosecutors may be appointed only ~~in accordance with~~ **under** this section.

(b) A circuit or superior court judge:

(1) shall appoint a special prosecutor if:

(A) any person other than the prosecuting attorney or the prosecuting attorney's deputy files a verified petition requesting the appointment of a special prosecutor; and

(B) the prosecuting attorney agrees that a special prosecutor is needed;

(2) may appoint a special prosecutor if:

(A) a person files a verified petition requesting the appointment of a special prosecutor; and

(B) the court, after:

(i) notice is given to the prosecuting attorney; and

(ii) an evidentiary hearing is conducted at which the prosecuting attorney is given an opportunity to be heard;

finds by clear and convincing evidence that the appointment is necessary to avoid an actual conflict of interest or there is probable cause to believe that the prosecutor has committed a crime;

(3) may appoint a special prosecutor if:

(A) the prosecuting attorney files a petition requesting the court to appoint a special prosecutor; and

(B) the court finds that the appointment is necessary to avoid the appearance of impropriety; and

(4) may appoint a special prosecutor if:

(A) an elected public official, who is a defendant in a criminal proceeding, files a verified petition requesting a special prosecutor within ten (10) days after the date of the initial hearing; and

(B) the court finds that the appointment of a special prosecutor is in the best interests of justice.

(c) Each person appointed to serve as a special prosecutor:

(1) must consent to the appointment; and

(2) must be:

(A) the prosecuting attorney **or** ~~(B)~~ a deputy prosecuting attorney in a county other than the county in which the person is to serve as special prosecutor; or

~~(C)~~ **(B)** except as provided in subsection (d), a senior

prosecuting attorney.

(d) A senior prosecuting attorney may be appointed in the county in which the senior prosecuting attorney previously served if the court finds that an appointment under this subsection would not create the appearance of impropriety.

(e) A person appointed to serve as a special prosecutor has the same powers as the prosecuting attorney of the county. However, the **appointing judge shall limit** scope of the special prosecutor's duties ~~shall be limited by the appointing judge~~ to include only the investigation or prosecution of a particular case or particular grand jury investigation.

(f) The court shall establish the length of the special prosecutor's term. If the target of an investigation by the special prosecutor is a public servant (as defined in IC 35-41-1-24), the court shall order the special prosecutor to file a report of the investigation with the court at the conclusion of the investigation. The report is a public record.

(g) If the special prosecutor is not regularly employed as a full-time prosecuting attorney or full-time deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid to the special prosecutor from the unappropriated funds of the appointing county; and

(2) ~~shall~~ **may** not exceed:

(A) a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit; and

(B) travel expenses and reasonable accommodation expenses actually incurred.

(h) If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid out of the appointing county's unappropriated funds to the treasurer of the county in which the special prosecutor regularly serves; and

(2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, travel expenses, and reasonable accommodation expenses actually incurred.

(i) The combination of:

(1) the compensation paid to a senior prosecuting attorney under this chapter; and

(2) retirement benefits that the person appointed as a senior prosecuting attorney is receiving or entitled to receive;

may not exceed the minimum compensation to which a full-time prosecuting attorney is entitled under [IC 33-14-7-5.]

(j) A senior prosecuting attorney appointed under this chapter may not be compensated as senior prosecuting attorney for more than one

hundred (100) calendar days in the aggregate during a calendar year.

SECTION 1587. IC 33-14-1-6.5, AS ADDED BY P.L.72-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-1-6.5] Sec. 7. A person may not be appointed a senior prosecuting attorney under section [6] of this chapter if the person:

(1) is not available for the minimum period of commitment for service as a special prosecutor; or

(2) has had a disciplinary sanction imposed by the Indiana supreme court disciplinary commission or a similar body in another state that restricts the person's ability to practice law.

SECTION 1588. IC 33-14-1-7, AS AMENDED BY P.L.219-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-1-7] Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) A prosecuting attorney may withhold prosecution against an accused person if:

(1) the person is charged with a misdemeanor;

(2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney; and

(3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending.

(c) An agreement under subsection (b) may include conditions that the person:

(1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in ~~IC 33-19-5-1,~~ **?????;**

(2) work faithfully at a suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment;

(3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;

(4) support the person's dependents and meet other family responsibilities;

(5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;

(6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;

(7) report to the prosecuting attorney at reasonable times;

(8) answer all reasonable inquiries by the prosecuting attorney

and promptly notify the prosecuting attorney of any change in address or employment; and

(9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

(d) An agreement under subsection (b)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

(e) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

(f) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under ~~IC 33-19-8.~~ **????.**

(g) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection (c)(6):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 1589. IC 33-14-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-1-8] Sec. 8. A prosecuting attorney who charges a person with committing any of the following shall inform the person's employer of the charge, unless the prosecuting attorney determines that the person charged does not work with children:

(1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(2) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

Chapter 2. Powers and Duties

SECTION 1590. IC 33-14-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-5-1] Sec. 1. ~~All~~ **A** prosecuting ~~attorneys and their deputies of the state of Indiana~~ **attorney or deputy prosecuting attorney** may:

(1) take acknowledgments ~~to~~ **of** deeds or other instruments in writing;

(2) administer oaths;

(3) protest notes and checks;

(4) take the deposition of a witness; ~~to~~

(5) take and certify affidavits and depositions; and

(6) perform any duty now conferred upon a notary public by ~~the statutes of Indiana. And acknowledgments to deeds~~ **statute.**

An acknowledgment of a deed or ~~other instruments~~ **another instrument** taken by ~~any prosecuting attorney and his deputies shall entitle such deeds or other instruments to~~ **a prosecuting attorney or deputy prosecuting attorney may** be recorded **in** the same **manner** as though **a deed or another instrument were** acknowledged before a notary public.

SECTION 1591. IC 33-14-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-5-2] Sec. 2. ~~No~~ **A** prosecuting attorney or ~~his deputies shall be authorized to~~ **deputy prosecuting attorney may not** perform ~~any of the duties mentioned~~ **a duty set forth** in section 1 of this chapter until ~~he shall have procured such~~ **the prosecuting attorney or deputy prosecuting attorney obtains** a seal ~~as~~ **that** ~~will stamp~~ **stamps** upon paper a distinct impression:

(1) in words or letters sufficiently indicating ~~his~~ **the** official character ~~to which may be added such~~ **of the prosecuting attorney or deputy prosecuting attorney; and**

(2) that may include any other device ~~as he may choose.~~ **chosen by the prosecuting attorney or deputy prosecuting attorney.**

All acts not attested by ~~such~~ **a** seal ~~shall be~~ **are** void.

SECTION 1592. IC 33-14-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-5-3] Sec. 3. ~~It shall be the duty of every~~ **A** prosecuting attorney ~~and his deputies performing~~ **or deputy prosecuting attorney who performs** any of the acts ~~as~~ set forth in **section 1 of** this chapter **shall,** at the time of signing ~~any~~ **a** certificate of acknowledgment of a deed, mortgage, ~~or~~ other instrument, ~~or any~~ jurat, or other official document, ~~to~~ append to ~~such~~ **the** certificate a true statement of the date of the expiration of the commission of ~~such~~ **the** prosecuting attorney ~~The~~ **or deputy prosecuting attorney. A prosecuting attorney or deputy prosecuting attorney has** jurisdiction ~~of any such prosecuting attorney and his deputies~~ to perform the duties ~~mentioned~~ **set forth** in this chapter ~~shall be co-extensive with the state of~~ **anywhere within** Indiana.

SECTION 1593. IC 33-14-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-5-4] Sec. 4. ~~Any such~~ **A** prosecuting attorney ~~and his deputies performing any of acts or duties hereunder shall be~~ **or deputy prosecuting attorney who performs an act under this chapter is** entitled to the same fees as those charged by notaries public. ~~and where any~~ **If an** act **committed** by a notary public would be a violation of the law, ~~it shall likewise be~~

the act is a violation of the law if committed by a prosecuting attorney or ~~his deputies~~ **deputy prosecuting attorney** in the performance of ~~any of the duties or acts~~ **an act** authorized ~~hereunder.~~ **under this chapter.**

SECTION 1594. IC 33-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-2-1] Sec. 5. ~~All~~ **A** prosecuting ~~attorneys and their deputies are hereby authorized and empowered to~~ **attorney or a deputy prosecuting attorney may** administer all oaths that ~~may be found~~ **are** convenient and necessary to be administered in the discharge of their official duties. ~~and all oaths so~~ **An oath under this section shall be** administered ~~shall be~~ without any charge or expense. ~~whatever.~~

Chapter 3. Travel Expenses Reimbursed for the Taking of Depositions in Criminal Actions

SECTION 1595. IC 33-14-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-4-1 part] Sec. 1. **Except as provided in section 2 of this chapter and upon the order of a judge trying a criminal case,** the **county auditor shall pay to a prosecuting attorney, from funds in the county treasury not otherwise appropriated and as a part of the costs of the trial, an amount equal to the** expenses necessarily incurred by ~~any~~ **a** prosecuting attorney in traveling to attend the taking of any deposition in connection with ~~any~~ **the** criminal action. ~~in which such prosecuting attorney appears as such, shall be paid to him out of any money in the county treasury of the county where such case is pending, and not otherwise appropriated; such payment shall be made on the order of the judge trying the cause as a part of the expense and costs of such trial. Provided, That~~

[33-14-4-1 part] Sec. 2. If ~~such~~ **a prosecuting attorney incurred expenses described in section 1 of this chapter for a criminal** case ~~came~~ from another county **being heard** on a change of venue, the ~~same~~ **expenses** shall be collected from ~~such~~ **the** other county as other costs are collected in ~~such~~ **the** case.

[33-14-4-1 part] Sec. 3. The court shall ~~make to such~~ **provide a** prosecuting attorney ~~such~~ **an** allowance for ~~such~~ **reasonable** expenses ~~deemed just~~ after ~~such~~ **the** prosecuting attorney ~~shall have filed~~ **files** with the clerk of ~~such~~ **the** court an itemized **and verified** statement of ~~such~~ expenses. ~~duly verified.~~

Chapter 4. Appointment of Investigators and Jurisdiction to Investigate

SECTION 1596. IC 33-14-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-6-1] Sec. 1. **(a)** The prosecuting attorney of any judicial circuit of this state ~~is hereby authorized to~~ **Indiana may** appoint one (1) or more investigators with the approval of the county council or councils. ~~who work~~ **An**

investigator appointed under this section:

(1) works under the direction of the prosecuting attorney; and ~~whose duties shall be to~~

(2) may conduct ~~such~~ investigations and assist in the collecting and assembling of ~~such~~ evidence ~~as,~~ **that,** in the judgment of the prosecuting attorney, may be necessary for the successful prosecution of any of the criminal offenders of the judicial circuit. ~~any such~~

(b) An investigator ~~so~~ appointed **under this section** shall give bond in the sum of five thousand dollars ($5,000) and ~~shall have and possess~~ **has** the same police powers within the county authorized by law to all police officers.

(c) In each judicial circuit the salary or other compensation to be paid ~~each such~~ **an** investigator **appointed under this section** shall be set by the county council or councils. ~~In no event shall~~ A county council or councils **may not** reduce the number of investigators or compensation of any investigator ~~as heretofore established by law~~ without approval of the prosecuting attorney.

SECTION 1597. IC 33-14-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-6-2] Sec. 2. (a) ~~Where~~ **If** the place of trial for commission of an offense, as determined under IC 35-32-2-1, would potentially require a choice between or among counties, ~~then as between or among the coroners and law enforcement officers of those counties,~~ the coroner and law enforcement officers of the county where the offense is discovered have jurisdiction to investigate the offense.

(b) This section may be modified by agreement between or among the prosecuting attorneys of the counties involved.

Chapter 5. Assistance Procuring a Liquor License Prohibited

SECTION 1598. IC 33-14-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-3-1] Sec. 1. ~~It is~~ A: ~~Class B misdemeanor for a:~~

(1) prosecuting attorney;

(2) deputy prosecuting attorney; or

(3) judge of ~~any~~ **a** city court;

~~to~~ **who** recklessly ~~act~~ **acts** as attorney, agent, or counsel for ~~the~~ **an** applicant in ~~any~~ **a** proceeding to procure a license to retail or wholesale intoxicating liquors under ~~the laws of this state,~~ **IC 7.1,** or ~~aid or assist~~ **aids or assists** in any manner in the procuring of ~~such~~ a license **commits a Class B misdemeanor.**

Chapter 6. Compensation of Prosecutors, Deputies, and Investigators

SECTION 1599. IC 33-14-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-7-1] Sec. 1. (a)

Prosecuting attorneys and ~~their deputies~~ **deputy prosecuting attorneys** ~~shall~~ **are entitled to** receive ~~for their services~~ the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to a prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a prosecuting attorney or a deputy prosecuting attorney that exceeds the amount ~~if any,~~ that the state is to pay. ~~shall be paid upon a duly itemized and verified claim, filed as required by law, and by warrant issued by the auditor of the county, payable to the respective prosecuting attorney or deputy, upon allowance of such claim by the board of county commissioners. It is a Class B misdemeanor for~~

(c) A deputy ~~to~~ **prosecuting attorney who** knowingly ~~divide such~~ **divides** compensation with the prosecuting attorney or any other officer or person in connection with ~~such~~ employment ~~or for the~~ **commits a Class B misdemeanor.**

(d) A prosecuting attorney or any other officer or person ~~to accept~~ **who accepts** any ~~such~~ division of compensation **described in subsection (c) commits a Class B misdemeanor.** [QUERY: "Knowingly" accepts? Need mens rea.]

~~(b)~~ **(e)** The attorney general ~~of the state~~ shall call at least one (1) and not ~~to exceed~~ **more than** two (2) conferences of the ~~several~~ prosecuting attorneys, each year, for the purpose of considering, discussing, and developing coordinated plans for the enforcement of the ~~traffic and other~~ laws of ~~this state.~~ **Indiana.** The date or dates upon which ~~such~~ **the** conferences ~~shall be~~ **are** held shall be fixed by the attorney general. The expenses necessarily incurred by ~~any such~~ **a** prosecuting attorney in attending ~~any such~~ **a** conference, including the actual expense of transportation to and from the place where ~~such~~ **the** conference is held, together with ~~his~~ meals and lodging, shall be paid from the general fund of the county upon the presentation of ~~a duly~~ **an** itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there ~~be~~ **is** more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of this subsection shall be paid from the general fund of the respective counties constituting ~~such~~ **the** circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

SECTION 1600. IC 33-14-7-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-7-2] Sec. 2. (a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

(1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.

(3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(4) If the prosecuting attorney is a part-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (d) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting

attorney, as determined under section 5 of this chapter as though the prosecuting attorney had not elected full-time status.

(f) The salaries provided in this section shall be paid by the state once every two (2) weeks from the state general fund. There is appropriated annually out of the general fund of the state sufficient funds to pay any ~~such~~ amount ~~as may be~~ necessary. However, the salaries fixed in this chapter are determined to be maximum salaries to be paid by the state. ~~Nothing in~~ This chapter ~~shall limit~~ **does not limit** the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action by the appropriate county officials.

(g) ~~There shall also be appropriated annually by~~ The various county councils **shall appropriate annually** for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount ~~as may be~~ necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit.

SECTION 1601. IC 33-14-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-7-3] Sec. 3. For ~~the purpose~~ **purposes** of fixing the salaries of the various prosecuting attorneys under this chapter, ~~the several~~ **each** judicial ~~circuits~~ **circuit** of the state ~~of Indiana are~~ **is:**

(1) graded on the basis of population and gross assessed valuation; and ~~each judicial circuit is~~

(2) set up on the percentage ratio it bears to the state, the whole state being considered as one hundred percent (100%).

SECTION 1602. IC 33-14-7-5, AS AMENDED BY P.L.105-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-7-5] Sec. 5. (a) The annual minimum salary paid by the state to a full-time prosecuting attorney ~~as defined~~ **described** in section ~~19.5~~ **6** of this chapter is equal to the minimum salary of the circuit court judge of the same judicial circuit as the prosecuting attorney.

(b) A prosecuting attorney of a judicial circuit, other than a full-time ~~prosecutor as defined~~ **prosecuting attorney described** in section ~~19.5~~ **6** of this chapter is entitled to a minimum annual salary in an amount equal to sixty percent (60%) of the salary provided in subsection (a), except as provided by subsection (c).

(c) A prosecuting attorney, other than a full-time ~~prosecutor as defined~~ **prosecuting attorney described** in section ~~19.5~~ **6** of this chapter, of a judicial circuit:

(1) that has a population of less than eighty-five thousand (85,000) and that adjoins any county having a population of more than one hundred sixty thousand (160,000); or

(2) in which is located:

(A) the Indiana state prison, the Pendleton Correctional Facility, the Plainfield Correctional Facility, the Branchville Correctional Facility, the Wabash Valley Correctional Facility, or the Putnamville Correctional Facility; or

(B) a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients;

is entitled to a minimum annual salary in an amount equal to sixty-six percent (66%) of the salary provided in subsection (a).

(d) The state shall pay, from the state general fund, the minimum annual salary of a prosecuting attorney. The state shall pay the minimum annual salary in equal installments with payments being made once every two (2) weeks.

SECTION 1603. IC 33-14-7-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-7-19.5] Sec. 6. (a) Except as provided in section ~~19.6~~ **7** of this chapter, ~~any~~ **a** prosecuting attorney may elect to devote the prosecuting attorney's full professional time to the duties of the office of prosecuting attorney by filing **a** written notice ~~of such election~~ with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state. The election may be made annually during the prosecuting attorney's term. However, the notice of election must be made before June 30 of the applicable year. An election is effective for each successive year of the term unless it is revoked before June 30 of the year during which the prosecuting attorney wants to change the prosecuting attorney's status. However, only one (1) change in status may be made during the term. A revocation is made by the prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state.

(b) ~~In the event an election~~ **A prosecuting attorney who elects** to be a full-time prosecuting attorney: ~~is made, the prosecuting attorney shall:~~

(1) **shall** devote the prosecuting attorney's full professional time to the prosecuting attorney's office; and

(2) **may** not engage in the private practice of law.

(c) If a prosecuting attorney of a judicial circuit of the sixth through ninth class elects to become a full-time prosecuting attorney and the majority of the county council consents to the election, ~~then~~ a copy of the consent must be filed with the notice of election to full-time status with the circuit court of the prosecuting attorney's **judicial** circuit and with the auditor of state.

SECTION 1604. IC 33-14-7-19.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-7-19.6] Sec. 7. ~~Beginning January 1, 1979,~~ The prosecuting attorney of each judicial circuit of the second class within a county having a population of more

than two hundred thousand (200,000) but less than three hundred thousand (300,000) shall devote ~~his~~ **the prosecuting attorney's** full professional time to the duties of ~~his~~ **the prosecuting attorney's** office. ~~He~~ **The prosecuting attorney** may not engage in the private practice of law for the term for which ~~he~~ **the prosecuting attorney** was elected or appointed, and ~~he shall be paid~~ **the prosecuting attorney is entitled to** a minimum annual salary that is ~~no~~ **not** less than the salary of the judge of the circuit court of the same judicial circuit.

SECTION 1605. IC 33-14-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-7-20] Sec. 8. (a) The compensation provided in this chapter for ~~the various~~ prosecuting attorneys and their deputies ~~shall be~~ **is** in full for all services required by law. ~~The various~~ Prosecuting attorneys shall appear in all courts and in all cases where the law provides that they shall appear.

(b) ~~In all judicial circuits the~~ Prosecuting ~~attorney,~~ **attorneys,** deputy prosecuting attorneys, and investigators ~~shall be allowed,~~ **are entitled to a sum for mileage** for the miles necessarily traveled in the discharge of their ~~duty. a~~ **duties. The** sum for mileage **provided by this subsection must:**

(1) equal ~~to that~~ **the** sum per mile paid to state officers and employees, with the rate changing each time the state government changes its rate per mile; ~~said mileage~~

(2) ~~to~~ be allowed by the board of county commissioners on a claim duly filed monthly by the prosecutor, deputy prosecuting attorneys, and investigators itemizing the specific mileage traveled; ~~The mileage of the prosecuting attorneys shall~~ **and**

(3) be paid by the county in which the duty arose ~~which~~ **that** necessitated the travel.

(c) ~~Nothing contained in~~ This chapter ~~shall prevent~~ **does not prohibit** the payment of other expenses as may be allowed by law.

(d) ~~In the event any~~ **If a** board of county commissioners does not furnish the prosecuting attorney with office space, the county council shall appropriate a reasonable amount of money per year to the prosecuting attorney for office space.

SECTION 1606. IC 33-14-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-7-21] Sec. 9. The classification of salary schedules for prosecuting attorneys may not be lowered below the classification first fixed by the state board of accounts under ~~this chapter.~~ **IC 33-14-7 ???? (before its repeal).**

Chapter 7. Retirement Fund

SECTION 1607. IC 33-14-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-1] Sec. 1. This chapter applies only to:

(1) an individual who serves as a prosecuting attorney or chief

deputy prosecuting attorney on or after January 1, 1990; and

(2) a participant employed in a position described in section ~~7(2) or 7(3)~~ **8(2) or 8(3)** of this chapter who serves in the position after June 30, 1995.

SECTION 1608. IC 33-14-9-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-1.5] Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

SECTION 1609. IC 33-14-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-2] Sec. 3. As used in this chapter, "board" refers to the board of trustees of the public employees' retirement fund.

SECTION 1610. IC 33-14-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-3] Sec. 4. As used in this chapter, "fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the following year.

SECTION 1611. IC 33-14-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-4] Sec. 5. As used in this chapter, "fund" refers to the prosecuting attorneys retirement fund created by this chapter.

SECTION 1612. IC 33-14-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-5] Sec. 6. As used in this chapter, "participant" means a person serving in a position described in section ~~7~~ **8** of this chapter who is participating in the fund.

SECTION 1613. IC 33-14-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-6] Sec. 7. As used in this chapter, "salary" means the salary paid to a participant by the state, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code. The term does not include an amount paid to a participant by a county or counties.

SECTION 1614. IC 33-14-9-7, AS AMENDED BY P.L.72-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-7] Sec. 8. (a) As used in this chapter, "services" means the period beginning on the first day upon which a person first became:

(1) a prosecuting attorney or chief deputy prosecuting attorney;

(2) any other deputy prosecuting attorney who is:

(A) appointed under ~~IC 33-14-7-2,~~ **????;** and

(B) paid by the state from the state general fund; or

(3) the executive director or the assistant executive director of the prosecuting attorneys council of Indiana;

whether that date is before, on, or after January 1, 1990, and ending on the date under consideration, including all intervening employment in

a position described in subdivisions (1) through (3). If an individual is elected or appointed to a position described in subdivisions (1) through (3) and serves one (1) or more terms or part of a term, then retires from office, but at a later period or periods is appointed or elected and serves in a position described in subdivisions (1) through (3), the individual shall pay into the fund during all the periods that the individual serves in that position, except as otherwise provided in this chapter, whether the periods are connected or disconnected.

(b) A senior prosecuting attorney appointed under ~~IC 33-14-1 may~~ **???? is** not ~~be~~ required to pay into the fund during any period of service as a senior prosecuting attorney.

SECTION 1615. IC 33-14-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-8] Sec. 9. The prosecuting attorneys retirement fund is established. The fund consists of the following:

(1) Each participant's contributions to the fund.

(2) All gifts, grants, devises, and bequests in money, property, or other form made to the fund.

(3) All interest on investments or on deposits of the funds.

(4) A contribution or payment to the fund made in a manner provided by the general assembly.

SECTION 1616. IC 33-14-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-9] Sec. 10. The fund shall be construed to be a trust, separate and distinct from all other entities, maintained for the purpose of:

(1) securing payment of benefits to the participants and their beneficiaries; and

(2) payment of the costs of administering this chapter.

SECTION 1617. IC 33-14-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-10] Sec. 11. (a) The board shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under this chapter.

(2) In accordance with the powers and duties granted the board in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter.

(c) A determination by the board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board;

(2) the treasurer of state;

(3) the attorney general; and

(4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

SECTION 1618. IC 33-14-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-11] Sec. 12. (a) Except as provided in subsection (b), each participant shall make contributions to the fund as follows:

(1) A participant described in section ~~7(1)~~ **8(1)** of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after December 31, 1989.

(2) A participant described in section ~~7(2) or 7(3)~~ **8(2) or 8(3)** of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after June 30, 1994.

A participant's contributions shall be deducted from the participant's monthly salary by the auditor of state and credited to the fund.

(b) The state may pay the contributions for a participant.

SECTION 1619. IC 33-14-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-12] Sec. 13. (a) A participant who:

(1) ceases service in a position described in section ~~7~~ **8** of this chapter, other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon withdrawal the participant is entitled to receive the total sum contributed plus interest at the rate of five and one-half percent (5.5%) compounded annually, payable not later than sixty (60) days from the date of the withdrawal application.

(b) Notwithstanding section ~~7~~ **8** of this chapter, a participant who withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for years of service before the withdrawal.

SECTION 1620. IC 33-14-9-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-12.5] Sec. 14. (a) Interest shall be credited annually on June 30 at the rate of five and one-half percent (5.5%) on all amounts credited to the member as of June 30 of the preceding year.

(b) Contributions begin to accumulate interest at the beginning of the fiscal year after the year in which the contributions are due.

(c) When a member retires or withdraws, a proportional interest credit determined under this chapter shall be paid for the period elapsed since the last date on which interest was credited.

SECTION 1621. IC 33-14-9-13, AS AMENDED BY P.L.72-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-13] Sec. 15. A participant whose employment in a position described in section ~~7~~ **8** of this chapter is terminated is entitled to a retirement benefit computed under section ~~14 or~~ 16 **or 18** of this chapter, beginning on the date specified by the participant in a written application, if all of the following conditions are met:

(1) The application for retirement benefits and the choice of the retirement date is filed on a form provided by the board and the retirement date is:

(A) after the cessation of the participant's service;

(B) on the first day of a month; and

(C) not more than six (6) months before the date the application is received by the board.

However, if the board determines that a participant is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the participant became incompetent.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least ten (10) years of service credit; or

(B) meets the requirements for disability benefits under section ~~15~~ **17** of this chapter.

(3) The participant is not receiving and is not entitled to receive any salary for services currently performed, except for services rendered as a senior prosecuting attorney under ~~IC 33-14-1.~~ **????.**

SECTION 1622. IC 33-14-9-14, AS AMENDED BY P.L.285-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-14] Sec. 16. (a) This section does not apply to a participant who meets the requirements for disability benefits under section ~~15~~ **17** of this chapter.

(b) Except as provided in subsections (c) and (d), the amount of the annual retirement benefit to which a participant who applies for a retirement benefit and who is at least sixty-five (65) years of age is entitled equals the product of:

(1) the highest annual salary that was paid to the participant before separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE

Participant's Years of Service	Percentage
Less than 10	0
10	30%
11	33%
12	50%

13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

(c) If a participant who applies for a retirement benefit is not at least sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant was sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

(d) Benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

(e) ~~In the event~~ **If** benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at the rate of five and one-half percent (5.5%) compounded annually.

SECTION 1623. IC 33-14-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-15] Sec. 17. (a) Except as provided in subsection (b), a participant who becomes disabled while in active service in a position described in section ~~7~~ **8** of this chapter may retire for the duration of the disability if:

(1) the participant has at least five (5) years of creditable service;

(2) the participant has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and

(3) at least once each year until the participant ~~reaches age~~ **becomes** sixty-five (65) **years of age** a representative of the board verifies the continued disability.

For ~~the~~ purposes of this section, a participant who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the participant

furnishes proof of the qualification to the board.

(b) Benefits may not be provided under this chapter for any disability **that:**

(1) ~~resulting~~ **results** from an intentionally self-inflicted injury or attempted suicide while sane or insane;

(2) ~~resulting~~ **results** from the participant's commission or attempted commission of a felony; or

(3) ~~that~~ begins within two (2) years after a participant's entry or reentry into active service in a position described in section ~~7~~ **8** of this chapter and ~~that~~ was caused or contributed to by a mental or physical condition that manifested itself before the participant entered or reentered active service.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated to prove that an individual is qualified for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

SECTION 1624. IC 33-14-9-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-16] Sec. 18. (a) Except as provided in subsection (b), the amount of the annual benefit payable to a participant who meets the requirements for disability benefits under section ~~15~~ **17** of this chapter is equal to the product of:

(1) the annual salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE

Participant's Years of Service	Percentage
Less than 5	0
5-10	40%
11	41%
12	42%
13	43%
14	44%
15	45%
16	46%
17	47%
18	48%
19	49%
20 or more	50%

(b) Benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

SECTION 1625. IC 33-14-9-17 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-17] Sec. 19. (a) The surviving spouse of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least ten (10) years of service in a position described in section ~~7~~ **8** of this chapter; or

(C) met the requirements for disability benefits under section ~~15~~ **17** of this chapter;

is entitled, regardless of the participant's age, to the benefit prescribed by subsection (b).

(b) The surviving spouse is entitled to a benefit for life equal to the greater of:

(1) seven thousand dollars ($7,000); or

(2) fifty percent (50%) of the amount of retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section ~~14(c)~~ **16(c)** of this chapter.

(c) Benefits payable to a surviving spouse under this section are reduced by the amounts, if any, that are payable to the surviving spouse from the public employees' retirement fund as a result of the participant's death.

SECTION 1626. IC 33-14-9-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-18] Sec. 20. (a) If a participant's spouse does not survive the participant, the dependent child of a participant is, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section ~~17~~ **19** of this chapter.

(b) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, that dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section ~~17~~ **19** of this chapter.

(c) If there is more than one (1) dependent child, ~~then~~ the dependent children are entitled to share the benefit equally.

(d) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(e) Benefits payable to a dependent child are reduced by the amounts, if any, that are payable to the dependent child from the public employees' retirement fund.

SECTION 1627. IC 33-14-9-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-19] Sec. 21. (a) If ~~no~~ benefits are **not** payable to the survivors of a participant who dies,

and if a withdrawal application is filed with the board by the survivors or the participant's estate, the total of the participant's contributions plus interest at the rate of five and one-half percent (5.5%) compounded annually, minus any payments made to the participant, shall be paid to:

(1) the surviving spouse of the participant;

(2) any dependent or dependents of the participant, if a spouse does not survive; or

(3) the participant's estate, if a spouse or dependent does not survive.

(b) The amount owed a spouse, dependent or dependents, or estate under subsection (a) is payable not later than sixty (60) days ~~from~~ **after** the date of receipt of the withdrawal application.

SECTION 1628. IC 33-14-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-20] Sec. 22. The fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code as applicable to the fund. In order to meet those requirements, the fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The board shall distribute the corpus and income of the fund to participants and their beneficiaries in accordance with this chapter.

(2) ~~No~~ **A** part of the corpus or income of the fund may **not** be used for or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment **or** death, or for any other reason, may not be applied to increase the benefits a participant would otherwise receive under the retirement fund law.

(4) If the fund is terminated, or if all contributions to the fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the fund is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination for purposes of determining any benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year

immediately following the calendar year in which the member died.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participant's beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefits specified by Section 415 of the Internal Revenue Code. If a participant's benefits under this chapter would exceed that maximum benefit, the benefit payable under this chapter shall be reduced as necessary.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The ~~PERF~~ board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

SECTION 1629. IC 33-14-9-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-21] Sec. 23. (a) For the purposes of this chapter, ~~there is~~ **the following amounts are** appropriated for each biennium: ~~a sum of money as follows:~~

(1) From the state general fund, the amount required to actuarially fund participants' retirement benefits, as determined by the board on recommendation of an actuary.

(2) From the fund, the amount required for administration purposes.

(b) The biennial ~~appropriation~~ **appropriations** provided in this section shall be credited to the board annually in equal installments in the month of July of each year of the biennium.

SECTION 1630. IC 33-14-9-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-22] Sec. 24. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L. 102-318), and any amendments and regulations related to Section 401(a)(31), the fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

SECTION 1631. IC 33-14-9-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-9-23] Sec. 25. (a) Notwithstanding any **other** provision of this chapter, the fund must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the benefits and protections afforded by the

Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act, but is not entitled to receive credit for service for benefit purposes.

(b) Notwithstanding any **other** provision of this chapter, a participant is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

Chapter 8. Prosecuting Attorneys Council

[NEW] Sec. 1. **As used in this chapter, "council" refers to the prosecuting attorneys council of Indiana created in section 2 of this chapter.**

SECTION 1632. IC 33-14-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-8-1] Sec. 2. ~~There is hereby created a~~ **(a) The** prosecuting attorneys council of Indiana **is established.** ~~Its~~

(b) The membership ~~shall consist~~ **of the council consists** of all ~~of~~ the prosecuting attorneys and their chief deputies ~~duly~~ acting in ~~the state of~~ Indiana.

SECTION 1633. IC 33-14-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-8-2] Sec. 3. The activities of the council shall be directed by a ten (10) member board of directors ~~duly~~ elected by the entire membership of the council.

SECTION 1634. IC 33-14-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-8-3] Sec. 4. The council ~~shall have the authority to~~ **may** employ an executive director, staff, and clerical assistants necessary to fulfill the purposes of the council.

SECTION 1635. IC 33-14-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-8-4] Sec. 5. The council shall **do the following:**

(1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.

(2) Prepare manuals of procedure.

(3) Give assistance in preparation of the trial briefs, forms, and instructions.

(4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs. ~~and~~

(5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in ~~this state.~~ **Indiana.**

SECTION 1636. IC 33-14-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-8-5] Sec. 6. (a) The

drug prosecution fund is established. The council shall administer the fund. Expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The council may use money from the fund to provide assistance to prosecuting attorneys to:

(1) investigate and prosecute violations of IC 35-48;

(2) bring actions for forfeiture, law enforcement costs, and correction costs under IC 34-24-1;

(3) bring actions for civil and criminal remedies for a violation of IC 35-45-6; and

(4) obtain training, equipment, and technical assistance that would enhance the ability of prosecuting attorneys to reduce illegal drug activity.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

Chapter 9. Defense and Indemnification of Prosecutors

SECTION 1637. IC 33-14-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-11-3] Sec. 1. This chapter does not apply to a threatened, pending, or completed action or a proceeding that:

(1) results in the criminal conviction of; or

(2) is a disciplinary action or proceeding against;

a prosecuting attorney.

SECTION 1638. IC 33-14-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-11-1] Sec. 2. As used in this chapter, "expenses" includes the following:

(1) Reasonable attorney's fees, if the attorney general has authorized the prosecuting attorney to hire private counsel to provide the defense.

(2) A judgment.

(3) A settlement.

(4) Court costs.

(5) Discovery costs.

(6) Expert witness fees.

(7) Any other expense incurred as a result of an action or a proceeding.

SECTION 1639. IC 33-14-11-2, AS AMENDED BY P.L.72-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-11-2] Sec. 3. As used in the chapter, "prosecuting attorney" means a prosecuting attorney, a deputy prosecuting attorney, or a senior prosecuting attorney appointed under ~~IC 33-14-1.~~ **????.**

SECTION 1640. IC 33-14-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-14-11-4] Sec. 4. The state shall pay the expenses incurred by a prosecuting attorney from a threatened, pending, or completed action or proceeding that arises from:

(1) making;

(2) performing; or

(3) failing to make or perform;

a decision, a duty, an obligation, a privilege, or a responsibility of the prosecuting attorney's office.

SECTION 1641. IC 33-40 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 40. PUBLIC DEFENDERS

Chapter 1. State Public Defender

SECTION 1642. IC 33-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-7-1] Sec. 1. ~~There is hereby created~~ **(a)** The office of **state** public defender **is created.**

(b) The **state** public defender shall be appointed by the supreme court, ~~of the state of Indiana~~ to serve at the pleasure of ~~said~~ **the** court, for a term of four (4) years. ~~He~~

(c) The state public defender ~~shall~~ **must** be:

(1) a resident of ~~the state of~~ Indiana; and

(2) a practicing lawyer ~~of this state~~ **in Indiana** for at least three (3) years.

(d) The supreme court ~~is authorized to~~ **may** give ~~such~~ **any** tests ~~as~~ it ~~may deem~~ **considers** proper to determine the fitness of ~~any~~ **an** applicant for appointment.

SECTION 1643. IC 33-1-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-7-2] Sec. 2. (a) The state public defender shall represent ~~any~~ **a** person **who is:**

(1) confined in ~~any~~ **a** penal facility ~~of this state~~ **in Indiana** or committed to the department of correction due to a criminal conviction or delinquency adjudication; **and**

~~who is~~ **(2)** financially unable to employ counsel;

in ~~any~~ **a** postconviction proceeding testing the legality of ~~his~~ **the person's** conviction, commitment, or confinement, if the time for appeal has expired.

(b) The state public defender shall also represent ~~any~~ **a** person **who is** committed to the department of correction due to a criminal conviction or delinquency adjudication, **and** who is financially unable to employ counsel, in proceedings before the department of correction or parole board, if the right to legal representation is established by law.

(c) This section does not require the state public defender to pursue a claim or defense that is not warranted under law and cannot be supported by a good faith argument for an extension, **a** modification, or **a** reversal of law, or that for any other reason is without merit.

(d) This section does not prohibit an offender from proceeding on ~~his~~ **the offender's** own behalf or otherwise refusing the services of the state public defender.

SECTION 1644. IC 33-1-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-7-3] Sec. 3. **(a)** The **state** public defender shall be provided with a seal of ~~his~~ office on which ~~shall~~ appear the words "Public Defender, State of Indiana".

(b) The **state** public defender ~~shall have the power to~~ **may:**

(1) take acknowledgments; ~~and~~

(2) administer oaths; and

(3) do all other acts ~~now~~ authorized by law for **a** notary public.

~~Provided, each of said acts~~

An act performed under this section ~~shall~~ **must** be attested by ~~his~~ **the public defender's** official seal.

SECTION 1645. IC 33-1-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-7-4] Sec. 4. **(a)** The **state** public defender shall be paid an annual salary to be fixed by the supreme court. ~~of this state. He~~

(b) The state public defender may, with the consent of ~~said~~ **the supreme** court, appoint or employ, ~~such~~ **at compensation to be fixed by the supreme court, the** deputies, stenographers, or other clerical help ~~as~~ **that** may be required to discharge ~~his~~ **the public defender's** duties. ~~at compensation to be fixed by the court. He~~

(c) The state public defender shall be provided with an office at a place to be located and designated by the supreme court. ~~and he~~

(d) The state public defender shall be paid ~~his~~ **the state public defender's** actual necessary and reasonable traveling expenses, including cost of food and lodging when away from the municipality in which ~~his~~ **the public defender's** office is located **and while** on business of the office of the public defender. ~~and he~~

(e) The public defender shall be provided with:

(1) office furniture, fixtures, and equipment; **and**

(2) books, stationery, printing services, postage, and supplies.

SECTION 1646. IC 33-1-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-7-5] Sec. 5. The **state** public defender may order on behalf of ~~any~~ **a** prisoner ~~he~~ **the public defender** represents a transcript of any court proceeding, including evidence presented, had against ~~any~~ **the** prisoner, and depositions, if necessary, at the expense of the state. ~~but~~ **However,** the public defender ~~shall have authority to~~ **may** stipulate **as to the** facts contained

in the record of any court, or **as to** the substance of testimony presented or evidence heard involving any issue to be presented on behalf of ~~any~~ **the** prisoner, without the ~~same~~ **testimony or evidence** being fully transcribed.

SECTION 1647. IC 33-1-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-7-6] Sec. 6. All claims for salary or other expenses authorized by this chapter shall be allowed and approved by the supreme court. There is ~~hereby~~ appropriated annually out of funds of the state not otherwise appropriated a sufficient amount to pay salaries and expenses authorized by this chapter.

Chapter 2. Public Defenders

SECTION 1648. IC 33-9-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11-1] Sec. 1. Upon a determination by the judge of any **criminal** court ~~having criminal jurisdiction~~ that**:**

(1) the court is unable within a reasonable time to appoint an available attorney, public defender or otherwise, who is competent in the practice of law in criminal cases as legal counsel for any person charged in ~~such~~ **the** court with a criminal offense and **who does** not ~~having~~ **have** sufficient means to employ an attorney; or

(2) ~~upon a determination by such judge that~~ in the interest of justice an attorney from another judicial circuit, not regularly practicing in ~~such~~ **the** court, should be appointed to defend ~~such~~ **the** indigent defendant or appeal ~~his~~ **the defendant's** case, but ~~such~~ **the** judge is unable within a reasonable time to provide for the direct appointment of ~~such~~ an attorney,

~~such~~ **the** judge may make written request to the **state** public defender ~~of the State of Indiana~~ to provide a qualified attorney for the defense of ~~such~~ **the** indigent person. ~~attaching to said~~ **The judge shall attach to the** written request a copy of the affidavit or indictment, and ~~stating in said~~ **state in the** request the amount of the applicable minimum fee to be paid for the legal services of defense counsel in ~~such~~ **the** case, subject to:

(1) any additional amount reasonable under all the circumstances of the case, to be determined and approved by ~~such~~ **the** judge upon the final determination ~~thereof~~ **of the case;** and

(2) ~~such~~ reasonable partial allowances as may be approved and ordered by ~~such~~ **the** judge pending ~~such~~ final determination.

SECTION 1649. IC 33-9-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11-2] Sec. 2. Upon receiving ~~any such~~ **a** written request **under section 1 of this chapter,** the **state** public defender ~~of the State of Indiana~~ shall: ~~have the duty~~

~~and the power to~~

(1) accept appointment himself **or herself;**

(2) ~~to~~ appoint any of ~~his~~ **the state public defender's** deputies; or

(3) ~~to~~ appoint any practicing attorney: ~~duly~~

(A) admitted to the practice of law ~~before the Supreme Court of~~ **in** Indiana; **and**

(B) who is competent to practice law in criminal cases;

subject to the concurring appointment, of record, by the requesting judge.

SECTION 1650. IC 33-9-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11-3] Sec. 3. (a) The **state** public defender ~~of the state of Indiana~~ shall prepare and maintain a schedule of minimum attorney fees for all general classifications of criminal trials, and proceedings on plea of "guilty", subject to the approval of the supreme court. ~~of Indiana, which~~ **The** schedule shall be furnished upon request to all **criminal** courts. ~~having criminal jurisdiction~~, ~~and no~~ **A** fee approved by any court for ~~such~~ **the** services of:

(1) the **state** public defender; ~~of the state of Indiana, his~~

(2) the state public defender's deputy; or

(3) any attorney appointed by the ~~said~~ **the state** public defender and ~~such~~ **the** judge ~~pursuant to such~~ **under a** request made to the ~~said~~ **state** public defender; ~~shall~~

may not be less than the approved minimum fee provided in ~~said~~ **the** schedule.

(b) In cases where there has been a change of venue, the presiding judge may not approve a fee for a public defender from the office of the **state** public defender ~~of the state of Indiana~~ that exceeds one hundred twenty-five percent (125%) of the minimum fee schedule established under this chapter.

SECTION 1651. IC 33-9-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11-4] Sec. 4. All fees for services rendered by the **state** public defender ~~of the State of Indiana~~ or any of ~~his~~ **the state public defender's** deputies ~~pursuant to~~ **under** this chapter shall be paid directly to the **state** treasurer, ~~of the State of Indiana,~~ to be expended for any necessary expenses of the office of ~~such~~ **the state** public defender, including ~~expenses of~~ salaries of the necessary deputies, in addition to the **state** general funds ~~of the State of Indiana~~ otherwise appropriated by the general assembly ~~of the State of Indiana~~ for the payment of ~~such~~ **the** expenses.

SECTION 1652. IC 33-9-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11-5] Sec. 5. The judge of ~~any~~ **a** court having criminal jurisdiction shall make all orders necessary to mandate payment of fees approved by the presiding judge

for payment for legal services rendered for indigent defendants in any cause in: ~~such~~

(1) the court; or

(2) ~~in~~ another court following change of venue from ~~such~~ **the** court;

whether or not ~~such~~ **the** legal services are arranged under ~~the provisions of~~ this chapter or by direct appointment of counsel in the first instance by ~~such~~ **the** judge.

SECTION 1653. IC 33-9-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11-6] Sec. 6. (a) A public defender may use a public defender investigator who is qualified under subsection (b) to assist the public defender in preparing for the criminal defense of indigent persons.

(b) To practice as a public defender investigator, an individual must:

(1) be at least twenty-one (21) years of age; and

(2) not have a conviction for a crime that has a direct bearing on the individual's ability to competently perform the duties of a public defender investigator.

(c) A public defender investigator may not perform any duties for the public defender that constitute the unauthorized practice of law.

Chapter 3. Supplemental Funding for Public Defender Services

SECTION 1654. IC 33-9-11.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-1] Sec. 1. ~~The~~ A supplemental public defender services fund is established in each county. The fund consists of amounts deposited under section 9 of this chapter.

SECTION 1655. IC 33-9-11.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-2] Sec. 2. The fiscal body of the county shall appropriate money from the fund to supplement and provide court appointed legal services to qualified defendants.

SECTION 1656. IC 33-9-11.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-3] Sec. 3. The supplemental public defender services fund may be used only to supplement the provision for court appointed legal services and may not be used to replace other funding of court appointed legal services.

SECTION 1657. IC 33-9-11.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-4] Sec. 4. Any money remaining in the fund at the end of the calendar year does not revert to any other fund but continues in the supplemental public defender services fund.

SECTION 1658. IC 33-9-11.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-5] Sec. 5. A county may not have more than one (1) program providing court appointed legal services in the county, unless the fiscal body of the

county agrees to allow additional court appointed legal services programs in the county.

SECTION 1659. IC 33-9-11.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-6] Sec. 6. (a) If at any stage of a prosecution for a felony or a misdemeanor the court makes a finding of ability to pay the costs of representation under section 7 of this chapter, the court shall require payment by the person or the person's parent, if the person is a child alleged to be a delinquent child, of the following costs in addition to other costs assessed against the person:

(1) Reasonable attorney's fees if an attorney has been appointed for the person by the court.

(2) Costs incurred by the county as a result of court appointed legal services rendered to the person.

(b) The clerk of the court shall deposit costs collected under this section into the supplemental public defender services fund established under section 1 of this chapter.

(c) A person ordered to pay any part of the costs of representation under subsection (a) has the same rights and protections as those of other judgment debtors under the Constitution of the State of Indiana and under Indiana law.

(d) The sum of:

(1) the fee collected under IC 35-33-7-6;

(2) any amount assessed by the court under this section; and

(3) any amount ordered to be paid under [IC 33-19-2-3;]

may not exceed the cost of defense services rendered to the person.

SECTION 1660. IC 33-9-11.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-7] Sec. 7. (a) If a defendant or a child alleged to be a delinquent child is receiving publicly paid representation, the court shall consider:

(1) the person's independently held assets and assets available to the spouse of the person or the person's parent if the person is unemancipated;

(2) the person's income;

(3) the person's liabilities; and

(4) the extent of the burden that payment of costs assessed under section 6 of this chapter would impose on the person and the dependents of the person.

(b) If, after considering the factors described in subsection (a), the court determines that the person is able to pay the costs of representation, the court shall enter a finding that the person is able to pay those additional costs.

SECTION 1661. IC 33-9-11.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-8] Sec. 8. An order for costs assessed under section 6 of this chapter is a civil

judgment subject to the exemptions allowed debtors under IC 34-55-10-2. At any time after entry of the order, the defendant may petition the court that has entered the order for relief from payment. The court may release the defendant from payment of all or a part of the payment required by the order if the court finds that payment would impose a hardship upon the defendant or dependents of the defendant.

SECTION 1662. IC 33-9-11.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-9] Sec. 9. Fees assessed under section 6 of this chapter shall be collected by the program providing court appointed legal services in the county. These fees shall be deposited in the supplemental public defender services fund established under section 1 of this chapter.

SECTION 1663. IC 33-9-11.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-11.5-10] Sec. 10. (a) In a county with a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000) in which a county public defender service is not provided, a supplemental public defender services fund must be established in each city for providing funding for a public defender to represent indigent defendants in a city court.

(b) Sections 2 through 9 of this chapter apply to the locally established supplemental public defender services fund established under subsection (a). However, funds otherwise required to be delivered to the county fiscal officer for maintaining a supplemental public defender services fund under this chapter shall be deposited with the local fiscal officer.

Chapter 4. Public Defender Council

[NEW] Sec. 1. **As used in this chapter, "council" refers to the public defender council of Indiana established in section 2 of this chapter.**

SECTION 1664. IC 33-9-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-12-1] Sec. 2. **(a)** There is established a public defender council of Indiana. ~~It's~~

(b) The council's membership consists of all:

(1) public defenders;

(2) contractual pauper counsel; and

(3) other court appointed attorneys regularly appointed to represent indigent defendants.

SECTION 1665. IC 33-9-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-12-2] Sec. 3. The activities of the council shall be directed by an eleven (11) member board of directors, ten (10) of whom shall be elected by the entire membership of the council, **and** the **state** public defender. ~~of Indiana shall also be a member of its board of directors~~.

SECTION 1666. IC 33-9-12-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-12-3] Sec. 4. The council may employ an executive director, staff, and clerical personnel as necessary to carry out **the council's** purposes.

SECTION 1667. IC 33-9-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-12-4] Sec. 5. The council shall:

(1) assist in the coordination of the duties of the attorneys engaged in the defense of indigents at public expense;

(2) prepare manuals of procedure;

(3) assist in the preparation of trial briefs, forms, and instructions;

(4) conduct research and studies of interest or value to all such attorneys; and

(5) maintain liaison contact with study commissions, organizations, and agencies of all branches of local, state, and federal government that will benefit criminal defense as part of the fair administration of justice in Indiana.

Chapter 5. Public Defender Commission

[NEW] Sec. 1. **As used in this chapter, "commission" refers to the Indiana public defender commission established by section 2 of this chapter.**

SECTION 1668. IC 33-9-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-13-1] Sec. 2. **(a)** The Indiana public defender commission ~~(referred to in this article as the commission)~~ is established.

(b) The commission is composed of the following eleven (11) members, none of whom may be a law enforcement officer or a court employee:

(1) Three (3) members appointed by the governor, with no more than two (2) of these individuals belonging to the same political party.

(2) Three (3) members appointed by the chief justice of the supreme court, with no more than two (2) of these individuals belonging to the same political party.

(3) One (1) member appointed by the board of trustees of the Indiana criminal justice institute, who is an attorney admitted to practice law in Indiana.

(4) Two (2) members of the house of representatives to be appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be from the same political party.

(5) Two (2) members of the senate, to be appointed by the ~~speaker~~ **president** pro tempore of the senate. The members appointed under this subdivision may not be from the same political party.

SECTION 1669. IC 33-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-13-2] Sec. 3. (a)

The members of the commission shall designate one (1) member of the commission as chairman.

(b) The term of office of each member of the commission is four (4) years. A vacancy occurring among the members of the commission before the expiration of a term shall be filled in the same manner as the original ~~appointments~~ **appointment.** An appointment to fill a vacancy occurring before the expiration of a term is for the remainder of the unexpired term.

(c) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(d) A member of the commission who is not a state employee is entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); **and**

(2) ~~Such a member is, however, entitled to~~ reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(e) The members of the commission shall meet at least quarterly and at times called by the chairman or at the request of three (3) commission members.

SECTION 1670. IC 33-9-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-13-3] Sec. 4. (a) The commission shall do the following:

(1) Make recommendations to the supreme court ~~of Indiana~~ concerning standards for indigent defense services provided for defendants against whom the state has sought the death sentence under IC 35-50-2-9, including the following:

(A) Determining indigency and eligibility for legal representation.

(B) Selection and qualifications of attorneys to represent indigent defendants at public expense.

(C) Determining conflicts of interest.

(D) Investigative, clerical, and other support services necessary to provide adequate legal representation.

(2) Adopt guidelines and standards for indigent defense services under which the counties will be eligible for reimbursement under ~~IC 33-9-14~~, **????,** including but not limited to the following:

(A) Determining indigency and the eligibility for legal representation.

(B) The issuance and enforcement of orders requiring the

defendant to pay for the costs of court appointed legal representation under ~~IC 33-9-11.5.~~ **????.**

(C) The use and expenditure of funds in the county supplemental public defender services fund established by ~~IC 33-9-11.5.~~ **????.**

(D) Qualifications of attorneys to represent indigent defendants at public expense.

(E) Compensation rates for salaried, contractual, and assigned counsel.

(F) Minimum and maximum caseloads of public defender offices and contract attorneys.

(3) Make recommendations concerning the delivery of indigent defense services in Indiana.

(4) Make an annual report to the governor, the general assembly, and the supreme court on the operation of the public defense fund.

SECTION 1671. IC 33-9-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-13-4] Sec. 5. The division of state court administration of the supreme court ~~of Indiana~~ shall provide general staff support to the commission. The division of state court administration may enter into contracts for any additional staff support that the division determines is necessary to implement this section.

Chapter 6. Public Defense Fund

SECTION 1672. IC 33-9-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-14-1] Sec. 1. The public defense fund is established to receive court costs or other revenues for county reimbursement and administrative expenses. The fund shall be administered by the division of state court administration of the supreme court. ~~of Indiana.~~

SECTION 1673. IC 33-9-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-14-2] Sec. 2. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

SECTION 1674. IC 33-9-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-14-3] Sec. 3. Money in the fund at the end of a fiscal year does not revert to the state general fund.

SECTION 1675. IC 33-9-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-14-4] Sec. 4. (a) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to fifty percent (50%) of the county's expenditures for indigent defense services provided to a defendant against whom the death sentence is sought under IC 35-50-2-9.

(b) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to forty percent (40%) of the county's expenditures for indigent defense services provided in all noncapital cases except misdemeanors.

(c) A request under this section from a county described in ~~IC 33-9-15-1(3)~~ **????** may be limited to expenditures for indigent defense services provided by a particular division of a court.

SECTION 1676. IC 33-9-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-14-5] Sec. 5. (a) Except as provided under section [6] of this chapter, upon certification by a county auditor and a determination by the public defender commission that the request is in compliance with the guidelines and standards set by the commission, the commission shall quarterly authorize an amount of reimbursement due the county:

(1) that is equal to fifty percent (50%) of the county's certified expenditures for indigent defense services provided for a defendant against whom the death sentence is sought under IC 35-50-2-9; and

(2) that is equal to forty percent (40%) of the county's certified expenditures for defense services provided in non-capital cases except misdemeanors.

The state court administrator shall then certify to the auditor of state the amount of reimbursement owed to a county under this chapter.

(b) Upon receiving certification from the state court administrator, the auditor of state shall issue a warrant to the treasurer of state for disbursement to the county of the amount certified.

SECTION 1677. IC 33-9-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-14-6] Sec. 6. If the public defense fund would be reduced below two hundred-fifty thousand dollars ($250,000) by payment in full of all county reimbursement for net expenditures in noncapital cases that is certified by the state court administrator in any quarter, the **public defender** commission shall suspend payment of reimbursement to counties in noncapital cases until the next semiannual deposit in the public defense fund. At the end of the suspension period, the state court administrator shall certify all suspended reimbursement. If the public defense fund would be reduced below two hundred-fifty thousand dollars ($250,000) by payment in full of all suspended reimbursement in noncapital cases, the amount certified by the state court administrator for each county entitled to reimbursement shall be prorated.

Chapter 7. County Public Defender Boards

SECTION 1678. IC 33-9-15-1, AS AMENDED BY P.L.170-2002, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-1] Sec. 1. This chapter does

not apply to a county that:

(1) contains a consolidated city;

(2) has a population of:

(A) more than three hundred thousand (300,000) but less than four hundred thousand (400,000);

(B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000); or

(C) more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000); or

(3) has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), except as provided in sections 5 and ~~10.5~~ **11** of this chapter.

SECTION 1679. IC 33-9-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-2] Sec. 2. As used in this chapter, "board" refers to a board established in an ordinance under section 3 of this chapter.

SECTION 1680. IC 33-9-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-3] Sec. 3. (a) A county executive may adopt an ordinance establishing a county public defender board consisting of three (3) members. The county executive shall appoint one (1) member. The judges who exercise felony or juvenile jurisdiction in the county shall appoint by majority vote the other two (2) members.

(b) The members appointed by the judges may not be from the same political party. The members must be persons who have demonstrated an interest in high quality legal representation for indigent persons. However, a member may not be a city, town, or county attorney, a law enforcement officer, a judge, or a court employee.

(c) Each member of the board serves a three (3) year term beginning with the date of the member's appointment. A member appointed to fill a vacancy holds office for the remainder of the previous member's term. If a successor has not been appointed by the end of a member's three (3) year term, the member continues in office until the member's successor takes office.

(d) The members shall, by a majority vote, elect one (1) member to serve as chairman.

(e) Meetings shall be held at least quarterly and may be held at other times during the year at the call of the:

(1) chairman; or

(2) other two (2) members.

(f) A county executive may terminate the board by giving at least ninety (90) days written notice to the judges described in subsection (a).

SECTION 1681. IC 33-9-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-4] Sec. 4. A

member is entitled to reimbursement from the county for traveling expenses and other expenses actually incurred in connection with the member's duties to the same extent as is provided to a state employee for traveling expenses and other expenses under the state travel policies and procedures established by the department of administration and approved by the budget agency.

SECTION 1682. IC 33-9-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-5] Sec. 5. (a) The board shall prepare a comprehensive plan that must include at least one (1) of the following methods of providing legal defense services to indigent persons:

(1) Establishing a county public defender's office.

(2) Contracting with an attorney, a group of attorneys, or a private organization.

(3) ~~Utilizing~~ **Using** an assigned counsel system of panel attorneys for case-by-case appointments under section 9 of this chapter.

(4) In a county described in section 1(3) of this chapter, establishing a public defender's office for the criminal division of the superior court.

(b) The plan prepared under subsection (a) shall be submitted to the **public defender** commission.

SECTION 1683. IC 33-9-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-6] Sec. 6. (a) If a county public defender's office is established under this chapter, the board shall do the following:

(1) Recommend to the county fiscal body an annual operating budget for the county public defender's office.

(2) Appoint a county public defender.

(3) Submit an annual report to the county executive, the county fiscal body, and the judges described in section 3 of this chapter regarding the operation of the county public defender's office including information relating to caseloads and expenditures.

(b) A county public defender shall be appointed for a term not to exceed four (4) years and may be reappointed. The county public defender may be removed from office only upon a showing of good cause. An attorney must be admitted to the practice of law in Indiana for at least two (2) years before the attorney is eligible for appointment as a county public defender.

SECTION 1684. IC 33-9-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-7] Sec. 7. A county public defender shall do the following:

(1) Maintain an office as approved by the board.

(2) Hire and supervise staff necessary to perform the services of the office after the staff positions are recommended by the board and approved by the county executive and the fiscal body.

(3) Keep and maintain records of all cases handled by the office and report at least annually to the board and the **public defender** commission concerning the operation of the office, costs, and projected needs.

SECTION 1685. IC 33-9-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-8] Sec. 8. (a) A county public defender may contract with an attorney, a group of attorneys, or a private organization to provide legal representation under this chapter.

(b) The board shall establish the provisions of the contract under this section.

(c) The county fiscal body shall appropriate an amount sufficient to meet the obligations of the contract.

SECTION 1686. IC 33-9-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-9] Sec. 9. The board may establish an assigned counsel system of panel attorneys to provide legal representation under this chapter that shall operate as follows:

(1) The board shall gather and maintain a list of attorneys qualified to represent indigent defendants.

(2) Upon the determination by a court that a person is indigent and entitled to legal representation at public expense, the court shall appoint an attorney to provide the representation from the list maintained by the board.

(3) An attorney appointed to provide representation under this section may request authorization from the judge hearing the case for expenditures for investigative services, expert witnesses, or other services necessary to provide adequate legal representation.

(4) An attorney appointed to provide representation under this section is entitled to receive compensation and reimbursement for budgeted expenses by submitting a voucher to the court. Upon approval of the voucher by the appropriate judge, the voucher shall be presented to the county auditor who shall process the claim as other claims against county funds are processed.

(5) An attorney appointed to provide representation under this section shall, upon completion of representation, report to the board information regarding the case disposition.

SECTION 1687. IC 33-9-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-10] Sec. 10. (a) This chapter does not prevent a court from appointing counsel other than counsel provided for under the board's plan for providing defense services to an indigent person when the interests of justice require. A court may also appoint counsel to assist counsel provided for under the board's plan as co-counsel when the interests of justice require. Expenditures by a county for defense services not provided under the

county public defender board's plan are not subject to reimbursement from the public defense fund under IC 33-9-14.

(b) A judge of a **criminal** court ~~having criminal jurisdiction~~ may make a written request to the state public defender to provide a qualified attorney for the defense of a person charged in the court with a criminal offense and eligible for representation at public expense if the judge determines:

(1) that an attorney provided under the county public defender board's plan is not qualified or available to represent the person; or

(2) that in the interests of justice an attorney other than the attorney provided for by the county defender board's plan should be appointed.

The judge shall attach to the request a copy of the information or indictment. Expenditures for representation under this subsection shall be paid by the county according to a fee schedule approved by the commission. These expenditures are eligible for reimbursement from the public defense fund.

SECTION 1688. IC 33-9-15-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-10.5] Sec. 11. (a) A county public defender board shall submit a written request for reimbursement to the county auditor. The request must set forth the total of the county's expenditures for indigent defense services to the county auditor and may be limited in a county described in section 1(3) of this chapter to expenditures for indigent defense services provided by a particular division of a court. The county auditor shall review the request and certify the total of the county's expenditures for indigent defense services to the public defender commission.

(b) Upon certification by the public defender commission that the county's indigent defense services meet the commission's standards, the auditor of state shall issue a warrant to the treasurer of state for disbursement to the county of a sum equal to forty percent (40%) of the county's certified expenditures for indigent defense services provided in noncapital cases except misdemeanors.

(c) If a county's indigent defense services fail to meet the standards adopted by the public defender commission, the **public defender** commission shall notify the county public defender board and the county fiscal body of the failure to comply with the **public defender** commission's standards. Unless the county public defender board corrects the deficiencies to comply with the standards not more than ninety (90) days after the date of the notice, the county's eligibility for reimbursement from the public defense fund terminates at the close of that fiscal year.

SECTION 1689. IC 33-9-15-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-15-11] Sec. 12. A

county public defender, a contract attorney, or counsel appointed by the court to provide legal defense services to indigent persons may not be a partner or employee at the same law firm that employs the county's prosecuting attorney or a deputy prosecuting attorney in a private capacity.

Chapter 8. Miscellaneous Legal Services for Indigents in Criminal Actions

SECTION 1690. IC 33-9-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-10-1] Sec. 1. The judge of any court having criminal jurisdiction, except **in** those counties with a population of four hundred thousand (400,000) or more, ~~shall have the power to~~ **may** contract with any attorney ~~at-law~~ or group of attorneys ~~at-law duly~~ admitted to practice law in ~~the state of~~ Indiana to provide legal counsel for all or some of the poor persons coming before the court charged with the commission of a crime, and not having sufficient means to employ an attorney ~~at-law~~ to defend themselves.

SECTION 1691. IC 33-9-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-10-2] Sec. 2. ~~The~~ **A** judge ~~of such courts~~ shall establish the fee to be paid to ~~such~~ **an** attorney or attorneys~~-at-law~~ for providing ~~such~~ service to ~~such~~ poor people.

SECTION 1692. IC 33-9-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-10-3] Sec. 3. ~~The~~ **A** contract ~~contemplated in~~ **entered into under section 1 of** this chapter may be from year to year or for any length of time ~~deemed proper~~ **determined** by the judge.

SECTION 1693. IC 33-9-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [IC 33-9-10-4] Sec. 4. The county council of every county ~~wherein~~ **where** the judge ~~or judges~~ of any court ~~or courts~~ having ~~any~~ criminal jurisdiction ~~have~~ **has** contracted with an attorney ~~or attorneys at-law~~ for legal services to the poor shall appropriate an amount sufficient to meet the contract obligations of ~~such~~ **a** court or courts for ~~such~~ services to the poor.

SECTION 1694. IC 33-1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-4-1] Sec. 5. An indigent person desiring to appeal to the supreme court or the court of appeals from the decision of ~~any~~ **a** circuit court or criminal court in criminal cases, and not having sufficient means to procure the longhand manuscript or transcript of the evidence taken in shorthand, by the order or permission of any court, the court shall direct the shorthand reporter to transcribe the shorthand notes of evidence into longhand, as soon as practicable, and deliver the ~~same~~ **longhand manuscript or transcript** to the indigent person. However, the court

must be satisfied that the indigent person ~~has not~~ **lacks** sufficient means to pay the reporter for making the longhand manuscript or transcript of evidence, and the reporter may charge ~~such~~ **the** compensation ~~as is~~ allowed by law in ~~such~~ cases for making and furnishing a longhand manuscript, which service of the reporter shall be paid by the court out of the proper county treasury. [QUERY: Repeal? Does this still apply to any court anymore?]

SECTION 1695. IC 33-41 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 41. COURT REPORTERS

Chapter 1. Powers and Duties

SECTION 1696. IC 33-15-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-23-1] Sec. 1. (a) ~~For the purpose of facilitating and expediting~~ **To facilitate and expedite** the trial of causes, the judge of each circuit, criminal, superior, probate, and juvenile court of each ~~and every~~ county ~~of this state~~ shall appoint an official reporter.

(b) ~~whose duty it shall be, whenever~~ **The official reporter shall, when** required by ~~such~~ **the recorder's appointing** judge, ~~to:~~ **do the following:**

(1) Be promptly present in ~~said~~ **the appointing judge's** court. ~~and to~~

(2) ~~Take down in shorthand~~ **Record** the oral evidence given in all causes, including both questions and answers. [QUERY: Shorthand?]

(3) Note all rulings of the judge ~~in respect to~~ **concerning** the admission and rejection of evidence and the objections and exceptions **to the admission and rejection of evidence.** ~~thereto, and~~ [QUERY: "THERETO"?]

(4) Write out the instructions of the court in jury trials.

~~(b)~~ **(c)** In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the case may be:

(1) shall report the proceedings of the juvenile court as part of ~~his~~ **the reporter's** duties as reporter of the circuit or probate court; and

(2) except as provided in subsection ~~(c), such reporter shall~~ **(d), may not** receive ~~no~~ additional compensation for ~~his~~ **the reporter's** services for reporting the proceedings of the juvenile court.

~~(c)~~ **(d)** In counties ~~wherein~~ **in which** a circuit court has juvenile jurisdiction and ~~wherein~~ **where** there is a juvenile referee and the circuit judge is the judge of the juvenile court, the salary of the juvenile

~~court reporter shall be~~ **is** one hundred and twenty-five dollars ($125) per month ~~which shall be~~ in addition to any compensation ~~such~~ **the** reporter ~~may receive~~ **receives** as reporter of the circuit court.

~~(d)~~ **(e)** The official reporters of juvenile courts shall:

(1) be paid the same amount for their services and in the same manner;

(2) have the same duties; and

(3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other courts. However, in a county having a population of more than two hundred fifty thousand (250,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom ~~shall~~ **is entitled to** receive a salary of ~~not less than~~ **at least** three hundred dollars ($300) per month.

SECTION 1697. IC 33-15-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-23-2] Sec. 2. ~~No~~ **(a) A** person ~~shall~~ **may not** be **considered** ineligible to ~~such office of shorthand~~ **serve as official** reporter ~~on account of sex. The~~ **because of the person's gender.**

(b) A judge ~~shall not~~ **may not** appoint ~~his~~ **the judge's** son or daughter as ~~such~~ **an official** reporter.

SECTION 1698. IC 33-15-23-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-23-3] Sec. 3. At the time of appointment, ~~such~~ **an official** reporter shall take an oath before ~~some~~ **an** officer empowered to administer oaths to faithfully perform his or her duties as ~~such~~ **an** official reporter.

SECTION 1699. IC 33-15-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-23-4] Sec. 4. ~~Such~~ **An official** reporter may, at any time, be removed by the judge of the court for which ~~he~~ **the reporter** was appointed. ~~and~~ In ~~every~~ case of **a** vacancy in the office of official reporter, ~~it shall be the duty of~~ the judge of ~~such~~ **the** court ~~to~~ **in which the vacancy occurs shall** fill the vacancy as soon after its occurrence as practicable.

SECTION 1700. IC 33-15-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-23-5] Sec. 5. ~~Whenever, in any cause, such~~ **(a) If requested to do so, an official** reporter shall ~~be requested to do so, he shall~~ furnish to either party **in a cause** a transcript of all or any part of ~~said~~ **the** proceedings required by ~~him~~ **the reporter** to be taken or noted, including all documentary evidence.

(b) ~~and It~~ **An official reporter** shall ~~be his duty to~~ furnish the ~~same~~ **transcript described in subsection (a)** written in a plain legible longhand or typewriting as soon after being requested to do so as

practicable.

(c) ~~he~~ **The reporter** shall certify that ~~it~~ **the transcript** contains all the evidence given in the cause.

(d) ~~Provided, That~~ The reporter may require payment for ~~such~~ **a** transcript, or that the ~~same~~ **payment** be satisfactorily secured, before ~~he~~ **the reporter** proceeds to do the **required** work. ~~required of him.~~

SECTION 1701. IC 33-15-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-24-1] Sec. 6. (a) Every official circuit, superior, criminal, probate, juvenile, and county court reporter appointed under ~~IC 33-15-23-1 or IC 33-10.5-8-2 is authorized and empowered to.~~ **???? may do the following:**

(1) Take and certify all acknowledgments of deeds, mortgages, or other instruments of writing required or authorized by law to be acknowledged.

(2) Administer oaths generally.

(3) Take and certify affidavits, examinations, and depositions. ~~and~~

(4) Perform any duty now conferred upon a notary public by the statutes of the state. ~~of Indiana.~~

(b) Any official reporter taking examinations and depositions ~~shall have the right to.~~ **may:**

(1) take them in shorthand;

(2) transcribe them into typewriting or longhand; and

(3) have them signed by the deposing witness. [QUERY: Shorthand and longhand?]

(c) Before performing any official duty as authorized, an official reporter ~~shall.~~ **must:**

(1) provide a bond as is required for ~~notary publics,~~ **notaries public;** and

(2) procure a seal ~~which~~ **that** will stamp a distinct impression indicating ~~his~~ **the reporter's** official character, to which may be added any other device as ~~he~~ **the reporter** ~~may choose.~~ **chooses.**

SECTION 1702. IC 33-15-25-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-25-2] Sec. 7. (a) This section applies to the small claims court established under ~~IC 33-11.6.~~ **????.**

(b) The person who is designated by a judge of the court to prepare transcripts may collect a fee of ~~no~~ **not** more than five dollars ($5) for each transcript from a person who requests the preparation of a transcript. [QUERY: MOVE TO MARION CTY SMALL CLAIMS ARTICLE?]

SECTION 1703. IC 33-15-23-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-23-7] Sec. 8. All laws heretofore existing in reference to the appointment and duties of ~~shorthand~~ **official** reporters are hereby repealed. Provided, That all

such acts shall remain in force as to all evidence heretofore taken by ~~shorthand~~ **official** reporters, the same as if the same had not been repealed. [QUERY: REPEAL?]

Chapter 2. Salaries

SECTION 1704. IC 33-15-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-26-1] Sec. 1. ~~(2) Sec. 1.~~ **As used in this chapter,** "census" ~~shall mean~~ **means** the last preceding United States federal decennial census.

~~(4)~~ Sec. 2. **As used in this chapter,** "county salary" ~~shall mean~~ **means** that part of a court reporter's salary ~~which~~ **that** is paid by the county.

~~(6)~~ Sec. 3. **As used in this chapter,** "judicial circuit" ~~shall mean~~ **means** any county comprising a single judicial circuit or any combination of one (1) or more counties comprising a single judicial circuit.

Sec. 4. As used in this chapter, ~~(1)~~ "official court reporter" ~~shall mean~~ **means** any court reporter who is appointed as the official court reporter by the judge of any circuit, superior, or probate court in ~~the state;~~ **Indiana.**

~~(5)~~ Sec. 5. **As used in this chapter,** "salary" ~~shall mean~~ **means** the amount of the state salary and the amount of the county salary added together.

~~(3)~~ Sec. 6. **As used in this chapter,** "state salary" ~~shall mean~~ **means** that part of a court reporter's salary ~~which~~ **that** is paid by the state. ~~of Indiana;~~

SECTION 1705. IC 33-15-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-26-2] Sec. 7. ~~The~~ County councils ~~of the several counties of the state~~ shall appropriate annually a sufficient amount to pay the county salaries authorized by this chapter.

SECTION 1706. IC 33-15-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-26-3] Sec. 8. ~~Where~~ **If** a judicial circuit is composed of more than one (1) county, all ~~of~~ the counties comprising ~~such~~ **the** circuit, for ~~the~~ purposes of this chapter, ~~shall be~~ **are** considered as one (1) county. ~~in such event,~~ Each county **in a circuit** shall pay part of the county salary in the same proportion as its individual classification factor bears to the classification factor of the judicial circuit.

SECTION 1707. IC 33-15-26-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-26-4] Sec. 9. For the purpose of this chapter: ~~the several~~

(1) counties ~~of the state~~ are graded on the basis of population and gross assessed valuation; and

(2) each county is set up on the percentage ratio it bears to the

state **with** the whole state being considered as one hundred percent (100%).

SECTION 1708. IC 33-15-26-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-26-5] Sec. 10. (a) The nine (9) classes of ~~the several~~ counties ~~of the state~~ as set out in this chapter are based on a unit factor system. The factors are determined by the relation of the county to the state as established and certified to each county auditor by the state board of accounts not later than July 1 of each year. ~~They~~ **The factors** are as follows:

(1) Population.

(2) Gross assessed valuation, as shown by the last preceding gross assessed valuation, as certified by the various counties to the auditor of state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

(1) The population of each county shall be divided by the population of the entire state.

(2) The gross assessed valuation of each county shall be divided by the gross assessed valuation of the entire state.

(3) The ~~two (2)~~ results ~~thus~~ obtained **in subdivisions (1) and (2)** shall be added together and the sum thus obtained for each county shall be divided by two (2).

(4) The final result so obtained, multiplied by one hundred (100), ~~shall determine~~ **determines** the classification of each county according to the following schedule:

CLASSIFICATION FACTORS

	HIGH	LOW	CLASS
No Limit		8.00	1
All under	8.00	2.25	2
All under	2.25	1.25	3
All under	1.25	.85	4
All under	.85	.70	5
All under	.70	.60	6
All under	.60	.50	7
All under	.50	.35	8
All under	.35	No Limit	9

SECTION 1709. IC 33-15-26-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-26-6] Sec. 11. ~~On and after January 1, 1966,~~ The annual salary of each court reporter shall be fixed as ~~hereinafter~~ provided **in this chapter** according to the county or counties in which ~~he~~ **the court reporter** holds office. ~~To such minimum annual salary the respective~~ **A** county or counties may add additional increments **to the minimum annual salary** according to the usual budget procedures. ~~by the respective counties, and such~~

The salaries shall be paid in equal monthly installments.

SECTION 1710. IC 33-15-26-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-26-7] Sec. 12. The annual salary of each court reporter shall be:

Class 1	$7,000.00
Class 2	$6,800.00
Class 3	$6,500.00
Class 4	$6,000.00
Class 5	$5,500.00
Class 6	$5,200.00
Class 7	$5,000.00
Class 8	$4,800.00
Class 9	$4,500.00

SECTION 1711. IC 33-15-26-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-26-8] Sec. 13. ~~Where~~ **If** the classification of any judicial circuit is changed by reason of change in population as determined by the census, the salaries of the court reporters of ~~such~~ **the** judicial circuit ~~shall thereafter be~~ **is** governed as provided by this chapter for judicial circuits of the population class into which it is ~~so~~ placed. ~~Provided, That no~~ **However, a** judicial circuit ~~shall~~ **may not** be reduced in classification for determining the salary of any court reporter unless the minimum population of any ~~such~~ class on July 1, 1965, was reduced more than five percent (5%) by the last preceding United States federal decennial census.

SECTION 1712. IC 33-15-26-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-26-9] Sec. 14. This chapter ~~shall in no way~~ **may not** be considered to repeal or amend ~~IC 33-15-23-1.~~ **????.**

Chapter 3. Depositions

SECTION 1713. IC 33-15-27-1, AS ADDED BY P.L.104-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-27-1] Sec. 1. This chapter does not apply to contracts for court reporting services for any of the following:

(1) A court.

(2) An agency or instrumentality of a state or political subdivision.

(3) An agency or instrumentality of the government of the United States.

SECTION 1714. IC 33-15-27-2, AS ADDED BY P.L.104-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-27-2] Sec. 2. As used in this chapter, "employee" includes the following:

(1) A person who provides reporting or other court services under a contractual relationship with a person interested in the outcome

of litigation, including anyone that may be ultimately responsible for payment.

(2) A person who is employed to provide reporting or other court services part time or full time under a contract or otherwise by a person that has a contractual relationship with a party.

SECTION 1715. IC 33-15-27-3, AS ADDED BY P.L.104-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-27-3] Sec. 3. A deposition to be used in a proceeding in a circuit, superior, probate, county, city, or town court, the court of appeals, or the supreme court must be taken before an individual who:

(1) is described in section 4 of this chapter; and

(2) does not have a prohibited interest or relationship described in section 5 of this chapter.

SECTION 1716. IC 33-15-27-4, AS ADDED BY P.L.104-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-27-4] Sec. 4. A deposition must be taken before:

(1) a hearing officer;

(2) a judge, clerk, commissioner, or official reporter of a court;

(3) a notary public; or

(4) another individual authorized by law to take a deposition.

SECTION 1717. IC 33-15-27-5, AS ADDED BY P.L.104-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-27-5] Sec. 5. (a) Subsection (b)(4) does not apply to a relative or employee of the attorney of one (1) of the parties to the proceeding.

(b) A deposition may not be taken by a person who is:

(1) a party to the proceeding;

(2) a relative, **an** employee, or **an** attorney of one (1) of the parties to the proceeding;

(3) someone with a financial interest in the proceeding or its outcome; or

(4) a relative, **an** employee, or **an** attorney of a person with a financial interest in the proceeding or its outcome.

SECTION 1718. IC 33-15-27-6, AS ADDED BY P.L.104-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-27-6] Sec. 6. A deposition that is not taken in conformity with section 3 of this chapter is void.

SECTION 1719. IC 33-15-27-7, AS ADDED BY P.L.104-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-15-27-7] Sec. 7. A person, when reducing a deposition to writing, shall transcribe a page unit of the deposition in the same form as the form required for a record of proceedings under Indiana Rule of Appellate Procedure 7.2.

SECTION 1720. IC 33-42 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 42. NOTARIES PUBLIC

Chapter 1. Jurisdiction

SECTION 1721. IC 33-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-1-1] Sec. 1. The jurisdiction of ~~any~~ **a** notary public ~~duly~~ qualified in ~~this state shall be~~ **Indiana is** co-extensive with the limits of the state. ~~but no~~ **However, a** notary ~~shall~~ **may not** be compelled to act out of the limits of the county in which ~~he~~ **the notary public** resides.

Chapter 2. Qualifications, Powers, and Duties

SECTION 1722. IC 33-16-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-1] Sec. 1. (a) ~~Any~~ **An** applicant for a commission as a notary public must:

(1) be at least eighteen (18) years of age; and

(2) be a legal resident of Indiana.

(b) A notary public shall be appointed and commissioned by the governor. A notary public ~~shall hold~~ **holds** office for eight (8) years. A notary public, when so qualified, ~~shall be authorized to~~ **may** act throughout Indiana.

(c) A person may request an application to become a notary public from the secretary of state. The secretary of state shall prescribe a written application form on which a person may apply for a commission as a notary public. The secretary of state may provide an applicant with enhanced access (as defined in IC 5-14-3-2) to an application form that may be completed and submitted to the secretary of state by means of an electronic device. IC 4-5-10 applies to an application form provided by enhanced access under this section. The application form must include the applicant's county of residence, oath of office, and official bond. The application must also contain any additional information necessary for the efficient administration of this chapter.

(d) The applicant ~~shall.~~ **must:**

(1) personally appear with an application form before an officer, authorized by law to administer oaths, who shall administer an oath of office to the applicant; or

(2) certify on an application form under penalty of perjury that the applicant will abide by the terms of the oath.

The secretary of state shall prescribe the manner in which an applicant may complete a certification authorized under subdivision (2).

(e) The applicant ~~shall~~ **must** secure an official bond, with freehold or corporate security, to be approved by the secretary of state in the sum of five thousand dollars ($5,000). The official bond ~~shall~~ **must** be conditioned upon the faithful performance and discharge of the duties

of the office of notary public, in all things according to law, for the use of any person injured by a breach of the condition. The completed application ~~shall~~ **must** be forwarded to the secretary of state. The secretary of state shall forward each commission issued by the governor to the applicant or the applicant's surety company.

(f) The secretary of state shall charge and collect the following fees:

(1) For each commission to notaries public, five dollars ($5).

(2) For each duplicate commission to notaries public, five dollars ($5).

SECTION 1723. IC 33-16-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-2] Sec. 2. (a) A notary public ~~shall~~ **may** not do any of the following:

(1) Use any other name or initial in signing acknowledgments, other than that by which the notary has been commissioned.

(2) Acknowledge any instrument in which the notary's name appears as a party to the transaction.

(3) Take the acknowledgment of or administer an oath to any person whom the notary actually knows:

(A) has been adjudged mentally incompetent by a court; ~~of competent jurisdiction;~~ and

(B) to be under a guardianship under IC 29-3 at the time the notary takes the acknowledgment or administers the oath.

(4) Take the acknowledgment of any person who is blind, without first reading the instrument to the blind person.

(5) Take the acknowledgment of any person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does speak or understand.

(6) Acknowledge the execution of:

(A) an affidavit, unless the affiant acknowledges the truth of the statements in the affidavit; or

(B) an instrument, unless the person who executed the instrument:

(i) signs the instrument before the notary; or

(ii) affirms to the notary that the signature on the instrument is the person's own.

(b) ~~In the event any~~ **If a** notary public violates ~~any of the provisions of~~ this article, the notary's appointment may be revoked by the judge of the circuit court in which the notary resides.

(c) The secretary of state may:

(1) investigate any possible violation of this section by a notary public; and ~~may;~~

(2) under IC 4-21.5, revoke the commission of a notary public who violates ~~any of the provisions of~~ this section. ~~Whenever~~ **If** the secretary of state revokes the commission of a notary public, the

notary public ~~is barred from reapplying~~ **may not reapply** for a new commission for five (5) years after the revocation.

SECTION 1724. IC 33-16-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-3] Sec. 3. The governor may appoint notaries public in the several counties ~~whenever,~~ **if,** in ~~his~~ **the governor's** judgment, the public interest would be ~~thereby~~ promoted **by the appointment.**

SECTION 1725. IC 33-16-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-4] Sec. 4. ~~No~~ **(a) A** notary ~~shall be authorized to~~ **may not** act until ~~he shall have~~ **the notary has** procured ~~such~~ a seal ~~as~~ **that** will stamp upon paper a distinct impression, in words or letters, sufficiently indicating ~~his~~ **the notary's** official character, to which may be added ~~such~~ **any** other device as ~~he~~ **the notary public** may choose. ~~and~~

(b) All notarial acts not attested by ~~such~~ **a** seal ~~shall be~~ **as described in subsection (a) are** void.

SECTION 1726. IC 33-16-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-5] Sec. 5. ~~Every~~ **A** notary ~~has the power to:~~ **may:**

(1) do all acts which by common law, and the custom of merchants, ~~they~~ **notaries** are authorized to do;

(2) take and certify all acknowledgments of deeds or other instruments of writing required or authorized by law to be acknowledged; and

(3) administer oaths generally, and ~~to~~ take and certify affidavits and depositions.

SECTION 1727. IC 33-16-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-6] Sec. 6. The official certificate of a notary public, attested by ~~his~~ **the notary's** seal, ~~shall be~~ **is** presumptive evidence of the facts ~~therein~~ stated in cases where, by law, ~~he~~ **the notary public** is authorized to certify ~~such~~ **the** facts.

SECTION 1728. IC 33-16-2-7, AS AMENDED BY P.L.23-2000, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-7] Sec. 7. ~~No~~ **(a) A** person ~~holding~~ **who holds** any lucrative office or appointment under the United States or under this state, and prohibited by the Constitution of ~~this state~~ **the State of Indiana** from holding more than one (1) ~~such~~ lucrative office, ~~shall~~ **may not** serve as a notary public. ~~and his acceptance of any such~~ **If a person accepts a lucrative** office **or appointment, the person** shall vacate ~~his~~ **the person's** appointment as ~~such~~ **a** notary.

(b) ~~but this provision shall~~ **Subsection (a) does** not apply to ~~any~~ **a** person ~~holding any~~ **who holds a** lucrative office or appointment under any civil or school city or town of ~~this state. No~~ **Indiana. A** person

~~being~~ **who is** a public official, or a deputy or appointee acting for or serving under ~~the same, shall~~ **a public official, may not** make any charge for services as a notary public in connection with any official business of ~~such~~ **that** office, or of any other office in the governmental unit in which ~~such persons are serving,~~ **the person serves** unless ~~such~~ **the** charges are specifically authorized by ~~some~~ **a** statute other than the statute ~~fixing~~ **that establishes** generally the fees and charges of notaries public.

SECTION 1729. IC 33-16-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-8] Sec. 8. **(a) Upon the request of the clerk of the circuit court of a county,** the secretary of state shall furnish to the clerk ~~of the circuit court of a county, at his request~~ a list of all commissioned notaries public residing in that county.

(b) If ~~any~~ **a** notary public ~~shall change his~~ **changes the notary's:**

(1) name**;** or

(2) county of residence;

during the term of ~~his~~ **the notary's** commission**,** ~~he shall~~ **the notary public shall** notify the secretary of state in writing of the change.

(c) The secretary of state shall process a revised commission to reflect any change of name or county. ~~and such~~ **A** revised commission ~~shall only be~~ **under this subsection is** valid for the unexpired term of the original commission.

SECTION 1730. IC 33-16-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-9] Sec. 9. (a) ~~Each~~ **A** notary, in addition to affixing ~~his~~ **the notary's** name, expiration date, and seal, shall:

(1) print or type ~~his~~ **the notary's** name immediately beneath ~~his~~ **the notary's** signature on a certificate of acknowledgment, jurat, or other official document, unless ~~his~~ **the notary's** name appears:

~~(1)~~ **(A)** in printed form on the document; or

~~(2)~~ **(b)** as part of ~~his~~ **the notary's** stamp in ~~such~~ **a** form ~~as to be~~ **that is** legible when the document is photocopied; and ~~also shall~~

(2) indicate ~~his~~ **the notary's** county of residence on the document.

(b) Failure to comply with subsection (a) does not affect the validity of any document notarized before July 1, 1982.

SECTION 1731. IC 33-16-2-10, AS ADDED BY P.L.64-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-2-10] Sec. 10. A person who:

(1) is not an attorney in good standing admitted to practice law in Indiana; and

(2) knowingly or intentionally:

(A) advertises the person's services in a language other than English;

(B) represents in the advertisement that the person is a notary, notary public, notario, notario publico, or another designation that indicates in a language other than English that the person is a notary public; and

(C) fails to conspicuously state in the advertisement, both in English and in the language of the advertisement, that the person is not an attorney in good standing admitted to practice law in Indiana;

commits a Class A misdemeanor.

Chapter 3. Requirement of Appending Date of Expiration of Commission

SECTION 1732. IC 33-16-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-3-1] Sec. 1. ~~It shall be the duty of every~~ **A person commissioned as a** notary public ~~holding a commission as such from~~ **by** the state ~~of Indiana~~ **shall append a true statement of the date of the expiration of the notary's commission as a notary public to** ~~at the time of signing~~ any certificate of acknowledgment of a deed, mortgage, or other instrument or any jurat or other official document ~~to append to such certificate a true statement of the date of the expiration of his commission as such notary public.~~ **at the time the document is signed.**

SECTION 1733. IC 33-16-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-3-2] Sec. 2. A notary public who omits to make the statement required by section 1 of this chapter commits a Class C infraction.

Chapter 4. Administering Oaths and Taking Acknowledgments

SECTION 1734. IC 33-16-4-1, AS AMENDED BY P.L.176-1999, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-4-1] Sec. 1. The following ~~are authorized to~~ **may** subscribe and administer oaths and take acknowledgments of all documents ~~whatsoever,~~ pertaining to all matters where an oath is required:

(1) Notaries public.

(2) Justices and judges of courts, in their respective jurisdictions.

(3) The secretary of state. ~~of Indiana.~~

(4) The clerk of the supreme court.

(5) Mayors, clerks, clerk-treasurers of towns and cities, and township trustees, in their respective towns, cities, and townships.

(6) Clerks of circuit courts and master commissioners, in their respective counties.

(7) Judges of United States district courts of Indiana, in their respective jurisdictions.

(8) United States commissioners appointed for any United States

district court of Indiana, in their respective jurisdictions.

(9) A precinct election officer (as defined in IC 3-5-2-40.1) and an absentee voter board member appointed under IC 3-11-10, for any purpose authorized under IC 3.

(10) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division under IC 3-6-4.2.

(11) County auditors, in their respective counties.

(12) Any member of the general assembly anywhere in Indiana.

SECTION 1735. IC 33-16-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-4-2] Sec. 2. A person authorized to administer oaths or take acknowledgments who, with intent to defraud:

(1) affixes ~~his~~ **the person's** signature to a blank form of affidavit or certificate of acknowledgment; and

(2) delivers that form to another person, with intent that it be used as an affidavit or acknowledgment;

commits a Class D felony.

SECTION 1736. IC 33-16-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-4-3] Sec. 3. A person who knowingly uses a form that was delivered to ~~him~~ **the person** in violation of section 2 of this chapter commits a Class D felony.

Chapter 5. The Authority of a Township Trustee to Perform Notarial Acts

SECTION 1737. IC 33-16-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-8-1] Sec. 1. A township trustee ~~has the power to~~ **may** perform any act that a notary public may perform in Indiana. Acknowledgments to deeds or other instruments taken by a trustee shall be recorded as if ~~they~~ **the acknowledgments** had been acknowledged before a notary public.

SECTION 1738. IC 33-16-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-8-2] Sec. 2. Before a trustee may perform a notarial act, the trustee ~~shall~~ **must** obtain a seal that can stamp upon paper a distinct impression that indicates the trustee's official character, along with any other information that the trustee chooses. A notarial act of a trustee that is not attested by a seal is void.

SECTION 1739. IC 33-16-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-8-3] Sec. 3. When signing any certificate of acknowledgment, jurat, or other official document, the trustee must append to it the trustee's date of election as a trustee.

SECTION 1740. IC 33-16-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-8-4] Sec. 4. A trustee may not receive a fee for performing a notarial act.

SECTION 1741. IC 33-16-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-8-5] Sec. 5. A trustee ~~shall~~ **may** not perform ~~any~~ **an** act that is prohibited to a notary public.

Chapter 6. Federal Land Bank Employees Acting as Notaries in Certain Transactions

SECTION 1742. IC 33-16-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-5-1] Sec. 1. The manager, officers, and employees of ~~any~~ **a** federal land bank association located ~~within the state of~~ **in** Indiana may become and act as a notary public in the business of ~~such~~ **the** association to take acknowledgments of deeds and real estate mortgages and to take and certify affidavits.

Chapter 7. Acknowledgment of Lot Sales by a Notary Who Is a Member of Cemetery Association

SECTION 1743. IC 33-16-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-6-1] Sec. 1. ~~Any~~ **A** notary public who ~~may be~~ **is** a stockholder or **an** officer of ~~any~~ **a** cemetery association ~~in which no officer or stockholder in such association can be~~ **whose rules or constitution prohibit an officer or a stockholder from becoming** a beneficiary from the sale of lots **by the cemetery association** ~~or otherwise as provided by the constitution of such association,~~ may ~~and is hereby authorized to~~ take acknowledgments of sales of ~~such~~ lots.

Chapter 8. Maximum Fees

SECTION 1744. IC 33-16-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-16-7-1] Sec. 1. The maximum fee of a notary public is two dollars ($2) for each notarial act.

SECTION 1745. IC 33-43 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 43. PRACTICE OF LAW

Chapter 1. Practice of Law by Attorneys

SECTION 1746. IC 33-21-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-1] Sec. 1. ~~Every~~ **(a) A** person, before proceeding to discharge the duties of an attorney, shall take an oath to:

(1) support the Constitution of the United States and ~~of this state, and that he will~~ **the Constitution of the State of Indiana; and**

(2) faithfully and honestly discharge the duties of an attorney-at-law. ~~which shall~~

(b) The oath **taken under subsection (a) must** be entered in the order-book of the court.

SECTION 1747. IC 33-21-1-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-2] Sec. 2. At each term of the court, the clerk shall furnish the court with a list of the names of all the attorneys having business in ~~such~~ **that** court. [QUERY: WHICH COURT?]

SECTION 1748. IC 33-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-3] Sec. 3. ~~It shall be the duty of~~ An attorney **shall do the following:**

(1) ~~To~~ Support the Constitution and laws of the United States and of ~~this state.~~ **Indiana.**

(2) ~~To~~ Maintain the respect that is due to the courts of justice and judicial officers.

(3) ~~To~~ **Only** counsel or maintain ~~such~~ actions, proceedings, or defenses ~~only as~~ **that** appear to ~~him~~ **the attorney to be** legal and just. ~~but~~ **However,** this ~~section shall~~ **subdivision may** not be construed to prevent the defense of a person charged with **a** crime. ~~in any case.~~

(4) ~~To~~ Employ, for the purpose of maintaining the causes confided to ~~him, such~~ **the attorney, only those** means ~~only~~ **that** as are consistent with truth and never seek to mislead the court or jury by any artifice or false statement of fact or law.

(5) ~~To~~ Maintain inviolate the confidence and, at every peril to ~~himself,~~ **the attorney,** to preserve the secrets of ~~his~~ **the attorney's** client.

(6) ~~To~~ Abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which ~~he~~ **the attorney** is charged.

(7) Not to encourage either the commencement or the continuance of an action or proceeding from any motive of passion or interest.

(8) Never to reject, from any consideration personal to ~~himself,~~ **the attorney,** the cause of the defenseless or oppressed.

(9) To promptly account to and pay over to a client any ~~moneys~~ **money** coming into the hands of the attorney ~~and~~ to which the client is lawfully entitled.

(10) To abstain from direct or indirect solicitation of employment to institute, prosecute, or defend against any claim, action, or cause of action.

SECTION 1749. IC 33-21-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-4] Sec. 4. **Until superseded by another attorney or discharged,** an attorney ~~has authority until discharged or superseded by another.~~ **may do the following:**

(1) ~~To~~ Bind ~~his~~ **the attorney's** client in an action or **a** special proceeding, by ~~his~~ **the attorney's** agreement **that is either** filed

with the clerk or entered upon the minutes of the court. ~~and not otherwise.~~

(2) ~~To~~ Receive money claimed by ~~his~~ **the attorney's** client ~~in~~ **during the pendency of** an action or **a** special proceeding. ~~during the pendency thereof or afterwards, and upon the payment thereof, and not otherwise,~~

(3) ~~To~~ Discharge ~~the~~ **a** claim or acknowledge satisfaction of ~~the~~ **a** judgment **after the money claimed has been received under subdivision (2).**

SECTION 1750. IC 33-21-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-5] Sec. 5. ~~No~~ **Unless the written authority of a party is first produced and its execution is satisfactorily proved to the court, a** judgment ~~shall~~ **may not** be rendered against any party:

(1) upon the agreement of an attorney; ~~nor any judgment~~ **or**

(2) by default;

~~where~~ **when** the party has not been notified or personally entered ~~his~~ **an** appearance. ~~unless the written authority of the party be first produced, and its execution proved to the satisfaction of the court.~~

SECTION 1751. IC 33-21-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-6] Sec. 6. The court or judge may:

(1) on motion of either party ~~and on showing~~ **that shows** reasonable ~~ground therefor,~~ **grounds;** or

(2) without ~~such~~ **a** motion;

require an attorney to produce and prove the authority under which ~~he~~ **the attorney** appears. ~~and until he does so,~~ **The court** may stay all proceedings by ~~him~~ **the attorney** on behalf of the party for whom ~~he~~ **the attorney** assumes to appear **until the attorney produces and proves authority to appear.**

SECTION 1752. IC 33-21-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-7] Sec. 7. If ~~it be alleged by~~ a party ~~for whom~~ **alleges that** an attorney appears ~~that he does so~~ **on behalf of the party** without **the party's** authority the court may, at any stage of the proceedings, relieve ~~such~~ **the** party from the consequences of the attorney's act. ~~It~~ **The court** may also, summarily **or** upon motion, compel the attorney to repair the injury consequent upon ~~his~~ **the attorney's** assumption of authority.

SECTION 1753. IC 33-21-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-8] Sec. 8. **(a)** An attorney who is guilty of deceit or collusion, or consents ~~thereto,~~ **to deceit or collusion,** with intent to deceive a court, ~~or~~ judge, or ~~a~~ party to an action or judicial proceeding commits a Class B misdemeanor. ~~and he shall also forfeit to the party injured treble damages, recoverable~~

~~in a civil action.~~

(b) A person who is injured by a violation of subsection (a) may bring a civil action for treble damages.

SECTION 1754. IC 33-21-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-9] Sec. 9. ~~When~~ **If, on request,** an attorney ~~on request,~~ refuses to deliver over money or papers to a person from whom or for whom ~~he~~ **the attorney** has received them, in the course of ~~his~~ **the attorney's** professional employment ~~whether in an action or not, he~~ **the attorney** may be required, after reasonable notice, on motion of any party aggrieved, by an order of the court in which an action, if any, was prosecuted or if ~~no~~ **an** action was **not** prosecuted, ~~then~~ by the order of any court of record, to ~~do so,~~ **deliver the money or papers** within a specified time, or show cause why ~~he~~ **the attorney** should not be punished for contempt.

SECTION 1755. IC 33-21-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-1-10] Sec. 10. ~~In cases contemplated in~~ **If an attorney has been ordered to deliver money or papers under** section 9 of this chapter, on ~~such~~ **a** motion or in an action brought by the **aggrieved** party, ~~aggrieved,~~ the court may **take any of the following actions:**

(1) Suspend the attorney from practice in any of the courts of ~~this state,~~ **Indiana,** for any length of time, in ~~it's~~ **the court's** discretion.

(2) Enter judgment ~~may also be rendered~~ for the amount of money withheld, deducting fees, if any are due, and costs paid by the attorney, with ten percent (10%) damages, which may be enforced by execution, without the benefit of stay or appraisement laws, and returnable within thirty (30) days. ~~The court may also~~

(3) Render any judgment and make any order ~~respecting~~ **with respect to the** papers or property withheld, that may be necessary to enforce the right of the party aggrieved. **The judgement or order is** subject to any liens the attorney ~~may have thereon~~ **has** for fees.

Chapter 2. Prohibition on Practicing Law by Nonattorneys

SECTION 1756. IC 33-21-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-2-1] ~~Sec. 1. The practice of law by a person who is not an attorney is prohibited under IC 33-1-5.~~

SECTION 1757. IC 33-1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-5-1] Sec. 1. ~~It is a Class B misdemeanor for~~ A person ~~to hold himself out as~~ **who:**

(1) professes to be a practicing lawyer; ~~to~~

(2) ~~conduct~~ **conducts** the trial of a case in ~~any~~ **a** court ~~of this state,~~ **in Indiana;** or ~~to~~

(3) ~~engage~~ **engages** in the business of a practicing lawyer; without first having been ~~duly~~ admitted as an attorney-at-law by the supreme court ~~of this state.~~ **commits a Class B misdemeanor.**

SECTION 1758. IC 33-1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-5-3] Sec. 2. In ~~all~~ **a** prosecution under this chapter, ~~it shall not be necessary for~~ the state **is not required** to prove that the defendant has not been ~~so~~ admitted as an attorney-at-law. ~~but~~ The burden of proving ~~such~~ admission ~~shall be~~ **is** on the defendant.

Chapter 3. Prohibition on Solicitation by Nonattorneys

SECTION 1759. IC 33-21-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-21-3-1] Sec. 1. Soliciting another person to bring an action for damages by a person who is not an attorney is prohibited under IC 35-45-14.

Chapter 4. Attorney Entitled to Hold Lien on Judgment

SECTION 1760. IC 33-1-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-1-3-1 part] Sec. 1. ~~Any~~ **An** attorney practicing ~~his profession~~ **law** in ~~any~~ **a** court of record in ~~this state, shall be entitled to~~ **Indiana may** hold a lien for ~~his~~ **the attorney's** fees on ~~any~~ **a** judgment rendered in favor of ~~any~~ **a** person ~~or persons~~ employing ~~such~~ **the** attorney to obtain the ~~same: Provided, That such~~ **judgment.**

[33-1-3-1 part] Sec. 2. (a) **An** attorney, ~~within~~ **not later than** sixty (60) days ~~from the time such~~ **after the date the** judgment ~~shall have been~~ **is** rendered, **must** enter in writing upon the docket or record ~~wherein~~ **in which** the judgment is recorded, ~~his~~ **the attorney's** intention to hold a lien ~~thereon, together~~ **on the judgment, along** with the amount of ~~his~~ **the attorney's** claim. ~~and~~

(b) If an appeal is taken on ~~such~~ **a** judgment, ~~such~~ **the** lien may be entered ~~within~~ **not later than** sixty (60) days ~~from~~ **after** the date the opinion of the higher court is recorded in the office of the clerk of the trial court or ~~from~~ **after** the date of final judgment where the cause is reversed and retried.

SECTION 1761. IC 33-44 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 44. INTEREST BEARING ATTORNEY TRUST ACCOUNTS

Chapter 1. Legislative Findings

SECTION 1762. IC 33-20-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-1-1] Sec. 1. The Indiana general assembly finds that:

(1) due to insufficient funding, existing programs providing free legal services in civil matters to indigent persons do not

adequately meet the needs of indigent persons;

(2) the use of funds collected pursuant to this article for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes in the judicial branch of government; and

(3) the expansion, improvement, and initiation of legal services to indigent persons will aid in the advancement of the science of jurisprudence and in the improvement of the administration of justice.

SECTION 1763. IC 33-20-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-1-2] Sec. 2. It is the purpose of this article to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons and to initiate new programs that will provide services to them.

Chapter 2. Application of Article

SECTION 1764. IC 33-20-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-2-2] Sec. 1. This article does not apply to an activity that is:

(1) the practice of law; and

(2) regulated by the judicial department of state government.

SECTION 1765. IC 33-20-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-2-3] Sec. 2. This article does not apply to the investment of nonqualified funds by an attorney:

(1) in any other investment specified by a client or beneficial owner; or

(2) as agreed to by the client, beneficial owner, or attorney.

SECTION 1766. IC 33-20-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-2-1] Sec. 3. An attorney is not subject to disciplinary action as a result of any action taken in accordance with this article.

Chapter 3. Definitions

SECTION 1767. IC 33-20-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-1] Sec. 1. The definitions in this chapter apply throughout this article.

SECTION 1768. IC 33-20-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-2] Sec. 2. "Attorney" means an individual in good standing admitted to the practice of law in Indiana. The term includes a professional corporation (as defined in IC 23-1.5-1-10) formed by one (1) or more attorneys.

SECTION 1769. IC 33-20-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-3] Sec. 3. "Board" refers to the Indiana attorney trust account board established under IC 33-20-4-1.

SECTION 1770. IC 33-20-3-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-4] Sec. 4. "Depository financial institution" means a bank, a bank or trust company, a credit union, an industrial loan and investment company, a savings bank, or a savings association, whether chartered, incorporated, licensed, or organized under Indiana law or the law of the United States that:

(1) does business in Indiana; and

(2) is insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund, the National Credit Union Administration, or an alternate share insurer.

SECTION 1771. IC 33-20-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-5] Sec. 5. "Eligible client" means a person:

(1) who resides in Indiana; and

(2) whose income:

(A) satisfies the eligibility standards established by a legal aid program or legal services program existing in Indiana on January 1, 1990, if the program's client eligibility standards provide that the client's income may not exceed one hundred fifty percent (150%) of the current poverty threshold established by the United States Office of Management and Budget;

(B) is not more than one hundred fifty percent (150%) of the current poverty threshold established by the United States Office of Management and Budget; or

(C) satisfies the eligibility standard for Supplemental Security Income or free services under the Older Americans Act of 1965, as amended (42 U.S.C. 3001-3057) or Developmentally Disabled Assistance and Bill of Rights Act (42 U.S.C. 6000-6083).

SECTION 1772. IC 33-20-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-6] Sec. 6. "Fee generating case" means ~~any~~ **a** case or matter ~~which,~~ **that,** if undertaken on behalf of an eligible client by an attorney in private practice, reasonably would be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case is not considered a fee generating case if adequate representation is unavailable and if any of the following circumstances exist concerning the case:

(1) The qualified legal services provider that represents the indigent in the case has determined in good faith that free referral is not possible for any of the following reasons:

(A) The case has been rejected by the lawyer referral service serving the county of the eligible client's residence, or if there is no such service, by two (2) attorneys in private practice who

have experience in the subject matter of the case.

(B) Neither the lawyer referral service described in clause (A), if one exists, nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of a type that attorneys in private practice ordinarily do not accept or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the eligible client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a qualified legal services provider or its employee to represent the indigent in the case pursuant to a statute, a court rule, or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement is based on need.

SECTION 1773. IC 33-20-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-7] Sec. 7. "Fund" refers to the Indiana attorney trust account fund established under [IC 33-20-7-1.]

SECTION 1774. IC 33-20-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-8] Sec. 8. "Interest-bearing attorney trust account" means an account with a depository financial institution that is:

(1) unsegregated;

(2) interest bearing;

(3) for the deposit of qualified funds by an attorney; and

(4) capable of being drawn upon by the depositor in the same manner as a checking account that is not interest bearing.

SECTION 1775. IC 33-20-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-9] Sec. 9. (a) "Legal assistance" means direct representation by an attorney of an eligible client in a civil matter pending in Indiana, including counsel, litigation, research, coordination with pro bono programs, support services, substantive and procedural training for attorneys and paralegals in poverty law subjects, and any other activity necessary to ensure the effective delivery of quality legal services in a civil matter.

(b) ~~Legal assistance~~ **The term** does not include representation of an

eligible client in:

(1) criminal matters; or

(2) a fee generating case.

SECTION 1776. IC 33-20-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-10] Sec. 10. "Qualified funds" means money received by an attorney from a client or beneficial owner in a fiduciary capacity that, in the good faith judgment of the attorney, is:

(1) of such an amount; or

(2) reasonably expected to be held for such a short term;

that sufficient interest income will not be generated to justify the expense of administering a segregated account.

SECTION 1777. IC 33-20-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-3-11] Sec. 11. "Qualified legal services provider" means a not-for-profit organization organized in Indiana and operating exclusively in Indiana which, as its primary purpose and function, provides legal assistance without charge to eligible clients in civil matters only.

Chapter 4. Indiana Attorney Trust Account Board

SECTION 1778. IC 33-20-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-1] Sec. 1. The Indiana attorney trust account board is established.

SECTION 1779. IC 33-20-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-2] Sec. 2. The board consists of eleven (11) members.

SECTION 1780. IC 33-20-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-3] Sec. 3. The chief justice of the Indiana supreme court shall appoint six (6) members of the board.

SECTION 1781. IC 33-20-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-4] Sec. 4. The following officials shall each appoint one (1) member of the board:

(1) The governor.

(2) The speaker of the house of representatives. ~~However, if there are an equal number of members of the house of representatives from each major political party, then the other speaker of the house of representatives shall make an appointment which would be otherwise reserved for the minority leader.~~ [QUERY: OK TO STRIKE? THERE IS A STATUTORY TIE BREAKING PROCEDURE.]

(3) The minority leader of the house of representatives.

(4) The president pro tempore of the senate.

(5) The minority floor leader of the senate.

SECTION 1782. IC 33-20-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-5] Sec. 5. The

chief justice shall consider the following factors as favorable in appointing a member under section 3 of this chapter:

(1) Whether the individual is a dean of an Indiana law school.

(2) Whether the individual is a director or board member of an Indiana legal services or legal aid program.

(3) Whether the individual is a member of the Indiana State Bar Association.

(4) Whether the appointment of the individual would result in representation on the board from the First District, Second District, and Third District of the court of appeals.

(5) Whether the individual is a representative of a depository financial institution.

(6) Whether the individual is an eligible client.

SECTION 1783. IC 33-20-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-6] Sec. 6. Not more than four (4) of the members appointed by the chief justice may be members of the same political party.

SECTION 1784. IC 33-20-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-7] Sec. 7. A member of the board serves a term of four (4) years.

SECTION 1785. IC 33-20-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-8] Sec. 8. The appointing authority shall fill a vacancy on the board.

SECTION 1786. IC 33-20-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-9] Sec. 9. The chief justice shall appoint a member of the board to serve as chairman not later than December 1 of each year.

SECTION 1787. IC 33-20-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-10] Sec. 10. The term of a chairman of the board begins January 1 following the chairman's appointment under section 9 of this chapter.

SECTION 1788. IC 33-20-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-11] Sec. 11. A member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). ~~Such a~~ **The** member is also entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided by the state travel policies and procedures established by the department of administration and approved by the budget agency.

SECTION 1789. IC 33-20-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-12] Sec. 12. A member of the board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided by the state travel policies and procedures established by the department of

administration and approved by the budget agency.

SECTION 1790. IC 33-20-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-13] Sec. 13. The board shall administer the fund in accordance with [IC 33-20-7.]

SECTION 1791. IC 33-20-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-14] Sec. 14. The board may receive, hold, and manage property.

SECTION 1792. IC 33-20-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-15] Sec. 15. The board may adopt rules under IC 4-22-2 to implement this article.

SECTION 1793. IC 33-20-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-4-16] Sec. 16. The board shall develop programs to:

(1) educate attorneys and depository financial institutions concerning this article; and

(2) encourage attorneys to create and maintain interest bearing attorney trust accounts.

Chapter 5. Participation By Attorneys

SECTION 1794. IC 33-20-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-5-1] Sec. 1. Except as provided in section 2 of this chapter, each attorney is subject to this article. ~~after December 31, 1990.~~

SECTION 1795. IC 33-20-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-5-2] Sec. 2. An attorney is not subject to this article if the attorney:

(1) does not place any qualified funds in an interest bearing attorney trust account; and

(2) submits a written statement to the board.

SECTION 1796. IC 33-20-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-5-3] Sec. 3. The statement submitted under section 2 of this chapter must:

(1) be filed in accordance with rules adopted under IC 4-22-2 by the board; and

(2) state that the attorney is acting under section 2 of this chapter to exempt the attorney from the application of this article.

SECTION 1797. IC 33-20-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-5-4] Sec. 4. If an attorney does not act under section 2 of this chapter, the board shall presume that the attorney has elected to be subject to this article.

SECTION 1798. IC 33-20-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-5-5] Sec. 5. An attorney subject to this article shall place all qualified funds in an interest bearing attorney trust account.

SECTION 1799. IC 33-20-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-5-6] Sec. 6. An

attorney subject to this article shall determine if money received from a client or beneficial owner constitutes qualified funds.

SECTION 1800. IC 33-20-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-5-7] Sec. 7. In making the determination under section 6 of this chapter, the attorney shall consider the following:

(1) The amount of interest the money would earn during the period the money is expected to be deposited.

(2) The cost of establishing and administering the account.

(3) The capability of the depository financial institution to calculate and pay the interest earned by each client's funds, after deduction of any service charges, to the client.

SECTION 1801. IC 33-20-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-5-8] Sec. 8. An attorney:

(1) does not breach a fiduciary duty;

(2) is not liable in damages; and

(3) is not subject to disciplinary action;

because of a deposit of money in an interest bearing attorney trust account if the attorney acted in accordance with a good faith judgment that the money constituted qualified funds.

Chapter 6. Interest Bearing Attorney Trust Accounts

SECTION 1802. IC 33-20-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-1] Sec. 1. If the depositor and depository financial institution agree, a trust account that contains qualified funds held by an attorney subject to this article may be made an interest bearing attorney trust account.

SECTION 1803. IC 33-20-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-2] Sec. 2. The terms and conditions of an interest bearing attorney trust account, except as required under this chapter, shall be determined by the depositor and the depository financial institution. A depository financial institution is not required to offer an interest bearing attorney trust account.

SECTION 1804. IC 33-20-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-3] Sec. 3. The board owns the beneficial interest in the interest accrued by an interest bearing attorney trust account of an attorney who is subject to this article.

SECTION 1805. IC 33-20-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-4] Sec. 4. Except for amounts deducted ~~pursuant to~~ **under** terms or conditions agreed upon under section 2 of this chapter, a depository financial institution shall remit any interest earned on an interest bearing attorney trust account to the board.

SECTION 1806. IC 33-20-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-5] Sec. 5. A depository financial institution shall make the remittance required under section 4 of this chapter not less frequently than quarterly and not later than fifteen (15) days after the end of the remittance period.

SECTION 1807. IC 33-20-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-6] Sec. 6. A depository financial institution shall transmit a statement to:

(1) the board; and

(2) the attorney who maintains the interest bearing attorney trust account;

when the depository financial institution remits interest under section 4 of this chapter.

SECTION 1808. IC 33-20-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-7] Sec. 7. The statement described in section 6 of this chapter must contain the following information:

(1) The name of the account.

(2) The amount of interest remitted from the account.

SECTION 1809. IC 33-20-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-8] Sec. 8. A depository financial institution ~~does~~ **is** not ~~have the duty~~ **required** to determine or inquire whether a deposit includes qualified funds.

SECTION 1810. IC 33-20-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-9] Sec. 9. The remittance of interest by a depository financial institution to the board from an interest bearing attorney trust account is a valid and sufficient release and discharge of a claim by an entity against the depository financial institution for the remittance.

SECTION 1811. IC 33-20-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-10] Sec. 10. An entity may not maintain an action against a depository financial institution solely for:

(1) offering, opening, or maintaining an interest bearing attorney trust account;

(2) accepting funds for deposit in an interest bearing attorney trust account; or

(3) remitting interest to the board.

SECTION 1812. IC 33-20-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-11] Sec. 11. A paper, a record, a document, or other information identifying an attorney, a client, or a beneficial owner of an interest bearing attorney trust account is confidential.

SECTION 1813. IC 33-20-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-6-12] Sec. 12. The

board or a depository financial institution ~~shall~~ **may** not disclose information described by section 11 of this chapter except:

(1) with the consent of the attorney maintaining the account; or

(2) as permitted by:

(A) law; or

(B) rule adopted by the judicial department of state government.

Chapter 7. Indiana Attorney Trust Account Fund

SECTION 1814. IC 33-20-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-1] Sec. 1. The Indiana attorney trust account fund is established as a trust fund to be used solely as provided under this article.

SECTION 1815. IC 33-20-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-2] Sec. 2. The fund shall be administered by the board in accordance with rules adopted under IC 4-22-2 by the board.

SECTION 1816. IC 33-20-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-3] Sec. 3. The board shall deposit the interest remitted under [IC 33-20-6-4] into the fund.

SECTION 1817. IC 33-20-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-4] Sec. 4. The money in the fund consists of public funds.

SECTION 1818. IC 33-20-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-5] Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

SECTION 1819. IC 33-20-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-6] Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 1820. IC 33-20-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-7] Sec. 7. For purposes of Indiana law, income received by the board from the remittance of interest is not taxable to:

(1) the attorney maintaining the interest bearing attorney trust account; or

(2) the client whose funds are deposited in the interest bearing attorney trust account.

SECTION 1821. IC 33-20-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-8] Sec. 8. The board may not disburse money in the fund except for:

(1) the delivery of civil legal assistance to eligible clients;

(2) programs or projects in the public interest that assist in the improvement of the administration of justice; and

(3) administrative costs.

SECTION 1822. IC 33-20-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-9] Sec. 9. During each year the board shall disburse money from the fund for the payment of administrative costs to the extent permitted under section 14 of this chapter. After the payment of administrative costs, any money disbursed by the board from the fund during that year shall be disbursed as follows:

(1) Ninety percent (90%) of the funds shall be disbursed to provide legal assistance to eligible clients by:

(A) qualified legal services providers; or

(B) law school clinics in Indiana that provide free civil legal assistance to eligible clients.

(2) Ten percent (10%) of the funds shall be disbursed for programs or projects in the public interest that assist in the improvement of the administration of justice, including the following:

(A) Guardian ad litem and court appointed special advocate programs that provide guardians ad litem or court appointed special advocates for appointment by the court:

(i) under IC 31-17-2-12 to conduct an investigation and prepare a report in a custody proceeding; or

(ii) under IC 31-33-15-1, IC 31-34-10, or IC 31-40.

(B) Lawyer referral services in Indiana that provide:

(i) a referral to an attorney in private practice without a charge for the referral; and

(ii) an initial consultation with an attorney in private practice without a charge for the consultation;

in a fee generating case.

SECTION 1823. IC 33-20-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-10] Sec. 10. An entity that receives funds disbursed under section 9(1) of this chapter during a year is not eligible to receive funds disbursed under section 9(2) of this chapter during that year.

SECTION 1824. IC 33-20-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-11] Sec. 11. An entity that receives funds disbursed under section 9(2) of this chapter during a year is not eligible to receive funds disbursed under section 9(1) of this chapter during that year.

SECTION 1825. IC 33-20-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-12] Sec. 12. The board shall periodically:

(1) enter into contracts with; and

(2) award grants to;
qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice to carry out the purpose of the fund.

SECTION 1826. IC 33-20-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-13] Sec. 13. In making disbursements from the fund under section 9(1) of this chapter, the board shall primarily consider the geographic distribution by county of persons with incomes of not more than the current poverty threshold established by the United States Office of Management and Budget, as indicated in the most current report published by the Bureau of the Census. However, the board may use other considerations in making disbursements from the fund when demonstrable legal needs are documented by a qualified legal services provider.

SECTION 1827. IC 33-20-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-14] Sec. 14. ~~After July 1, 1993,~~ Total administrative costs, including payments to board members under ~~IC 33-20-4-11 and IC 33-20-4-12,~~ **????,** costs for employees under ~~IC 33-20-8,~~ **????,** and all other costs of managing and administering the fund and otherwise performing all responsibilities of the board, may not exceed fifteen percent (15%) of the amounts received into the fund from interest bearing attorney trust accounts.

SECTION 1828. IC 33-20-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-7-15 Sec. 15. The state board of accounts shall conduct an audit of the fund at least one (1) time during each year to ensure that the fund is administered as required by this chapter. The state board of accounts may conduct audits of qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice as the state board of accounts considers necessary to ensure that the money distributed to qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice is being used as required by this article.

Chapter 8. Board Employees

SECTION 1829. IC 33-20-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-8-1] Sec. 1. The board may appoint an executive director to carry out this article.

SECTION 1830. IC 33-20-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-8-2] Sec. 2. The executive director may:

(1) employ persons; or

(2) contract for services;

upon approval by the board.

SECTION 1831. IC 33-20-8-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-8-3] Sec. 3. An employee of the board serves at the pleasure of the board.

Chapter 9. Annual Report

SECTION 1832. IC 33-20-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-9-1] Sec. 1. The board shall file a report with:

(1) the governor;

(2) the legislative council; and

(3) the chief justice of the supreme court;

before December 31 of each year. **The report filed with the legislative council must be in an electronic format under IC 5-14-6.**

SECTION 1833. IC 33-20-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: [33-20-9-2] Sec. 2. The report filed under section 1 of this chapter must include the following information for the annual period ending June 30:

(1) The number of eligible clients served.

(2) The amount of interest paid into the fund by the board during the year as remittances by depository financial institutions and the amount of interest deposited in the fund during the year from investments by the treasurer of state.

(3) The amount disbursed, by category, for direct legal services, to law school clinics, to programs or projects in the public interest that assist in the improvement of the administration of justice, administrative costs, and for educational purposes.

(4) The number of attorneys subject to this article.

(5) The number of attorneys submitting written statements under ~~IC 33-20-5-2.~~ **????.**

(6) The identity of qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice to whom grants have been made or with whom contracts have been executed and the amounts disbursed to each.

SECTION 1834. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 33-1; IC 33-2; IC 33-2.1; IC 33-3; IC 33-4; IC 33-5; IC 33-5.1; IC 33-6; IC 33-8; IC 33-9; IC 33-10.1; IC 33-10.5; IC 33-11.6; IC 33-12; IC 33-13; IC 33-14; IC 33-15; IC 33-16; IC 33-17; IC 33-19; IC 33-20; IC 33-21.