



February 28, 2014

ENGROSSED
HOUSE BILL No. 1347

DIGEST OF HB 1347 (Updated February 26, 2014 11:06 am - DI 106)

Citations Affected: IC 5-15; IC 24-4.5; IC 32-30; IC 33-31; IC 33-32; IC 33-33; IC 33-34; IC 33-37; IC 33-38; IC 34-35; IC 34-55; noncode.

Synopsis: Court administrative matters. Requires that the clerk of the circuit court (clerk) or the county recorder (recorder) must be the secretary of the county commission of public records, as determined by: (1) mutual agreement of the clerk and the recorder; or (2) if a mutual agreement cannot be reached, an affirmative vote of the majority of the members of the commission. Allows the clerk to keep the lis pendens record, the execution docket, and the register of witness
(Continued next page)

Effective: July 1, 2014.

Mayfield, Richardson,
VanDenburgh

(SENATE SPONSOR — STEELE)

January 15, 2014, read first time and referred to Committee on Courts and Criminal Code.
January 27, 2014, amended, reported — Do Pass.
January 29, 2014, read second time, ordered engrossed. Engrossed.
January 30, 2014, read third time, passed. Yeas 89, nays 0.

SENATE ACTION

February 4, 2014, read first time and referred to Committee on Judiciary.
February 27, 2014, amended, reported favorably — Do Pass.

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fees and court fees in electronic form if all information is available to the public to inspect or copy in the electronic form. Eliminates: (1) the requirement that the clerk attend court proceedings; and (2) the per diem paid the clerk or a deputy for attending court. Allows the clerk to retain an administrative fee of up to \$3 from any excess amount of fine, penalty, fee, or bail collected and refunded by the clerk. Requires the cost of: (1) an initial mailing of a document by certified or registered mail to be paid out of court costs and fees; and (2) any additional certified or registered mailings to be paid by the person requesting the additional mailings. Provides that a circuit court judgment docket must contain: (1) all civil judgments in which one party owes money to another party; and (2) any entry that is required by a statute. Provides that a judgment docket may not include: (1) judgments in which money is owed by a person to a state, a county, or another governmental entity as a result of a criminal conviction or a violation of an infraction or ordinance; or (2) except for cases in which the state obtains a judgment for unpaid taxes, judgments in which a governmental entity is the sole creditor. Allows a clerk of a circuit court to keep a judgment docket in: (1) an electronic format; (2) a paper format; or (3) both an electronic and a paper format. Provides that the judgment docket shall be made available for public inspection at the office of the clerk during regular office hours. Provides that, if the wages of a judgment debtor are being garnished: (1) a clerk is not required to notify the employer of the judgment debtor to suspend the garnishment after the judgment is satisfied; and (2) a request to suspend the garnishment must be submitted by the judgment debtor to the court that rendered the judgment. Requires the judges of all the Marion County township small claims courts to select from among themselves a small claims administrative judge to carry out certain duties currently performed by the Marion circuit court judge, including adopting uniform rules for conducting the business of the small claims courts. Allows a vacationing small claims court judge instead of the Marion circuit court judge to authorize the appointment of a judge pro tempore to handle the judicial business of the small claims court. Makes changes to the maximum part of the aggregate disposable earnings of an individual for any workweek that is subjected to garnishment to enforce the payment of any judgments against the individual. If a judgment debtor has failed to comply with an agreed order in the action, requires a court to order: (1) any property, income, or profits of a judgment debtor not exempt from execution or process or any debt due to the judgment debtor to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action; and (2) that the judgment or execution is a continuing lien upon the income or profits of the judgment debtor in the hands either of the judgment debtor or any other person from the date the order is served upon the person indebted to the judgment debtor to the extent that the lien, together with all similar liens, is allowed by law. Provides that: (1) if a court has issued a garnishment order to a third party (such as an employer) that provides income to a judgment debtor; (2) the garnishment order no longer applies to the third party due to a change in circumstances, including a change in employment; and (3) the judgment creditor files a petition describing the changed circumstances and providing contact information for a new third party who employs or otherwise provides income for a judgment debtor; the court may, without holding a hearing, cancel the first garnishment order and issue a new garnishment order to the new third party. Urges the legislative council to assign the topic of small claims court administration to an interim study committee.



February 28, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1347

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:

1 SECTION 1. IC 5-15-6-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A commission is hereby
3 created in each county of the state which shall be known as the county
4 commission of public records of _____ county.
5 (b) The county commission shall consist, ex officio, of the judge of
6 the circuit court, the president of the board of county commissioners,
7 the county auditor, the clerk of the circuit court, the county recorder,
8 the superintendent of schools of the school district in which the county
9 seat is located and the city controller of the county seat city, and if
10 there is no city controller, then the clerk-treasurer of the county seat
11 city or town shall be a member of such commission.
12 (c) The commission shall elect one (1) of its members to be
13 chairman. ~~and the clerk of the circuit court shall be secretary. The~~
14 **clerk of the circuit court or the county recorder must be secretary**
15 **of the commission. The person who serves as secretary shall be**
16 **determined as follows:**

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1 **(1) By mutual agreement of the clerk of the circuit court and**
 2 **the county recorder.**

3 **(2) If a mutual agreement cannot be reached under**
 4 **subdivision (1), by an affirmative vote of a majority of**
 5 **members of the county commission.**

6 The members of the county commission shall serve without
 7 compensation and shall receive no disbursement for any expense.

8 (d) The county commission shall meet at least one (1) time in each
 9 calendar year.

10 SECTION 2. IC 24-4.5-5-105 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 105. (1) For the
 12 purposes of IC 24-4.5-5-101 through IC 24-4.5-5-108:

13 (a) "disposable earnings" means that part of the earnings of an
 14 individual, including wages, commissions, income, rents, or
 15 profits remaining after the deduction from those earnings of
 16 amounts required by law to be withheld;

17 (b) "garnishment" means any legal or equitable proceedings
 18 through which the earnings of an individual are required to be
 19 withheld by a garnishee, by the individual debtor, or by any other
 20 person for the payment of a judgment; and

21 (c) "support withholding" means that part of the earnings that are
 22 withheld from an individual for child support in accordance with
 23 the laws of this state.

24 (2) Except as provided in subsection (8), the maximum part of the
 25 aggregate disposable earnings of an individual for any workweek which
 26 is subjected to garnishment to enforce the payment of one (1) or more
 27 judgments against ~~him~~ **the individual** may not exceed **the lesser of the**
 28 **following amounts:**

29 (a) **An amount equal to twenty-five percent (25%) of his the**
 30 **individual's** disposable earnings for that week or, **upon a**
 31 **showing of good cause by the individual why the amount**
 32 **should be reduced, an amount equal to:**

33 **(i) less than twenty-five percent (25%); and**

34 **(ii) at least ten percent (10%);**

35 **of the individual's disposable earnings for that week.**

36 (b) The amount by which ~~his the individual's~~ disposable earnings
 37 for that week exceed thirty (30) times the federal minimum hourly
 38 wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the
 39 earnings are payable.

40 ~~whichever is less.~~ In the case of earnings for a pay period other than a
 41 week, the earnings shall be computed upon a multiple of the federal
 42 minimum hourly wage equivalent to thirty (30) times the federal



1 minimum hourly wage as prescribed in this section.

2 (3) The maximum part of the aggregate disposable earnings of an
3 individual for any workweek which is subject to garnishment or
4 support withholding to enforce any order for the support of any person
5 shall not exceed:

6 (a) where such individual is supporting **his the individual's**
7 spouse or dependent child (other than a spouse or child with
8 respect to whose support such order is used), fifty percent (50%)
9 of such individual's disposable earnings for that week; and

10 (b) where such individual is not supporting such a spouse or
11 dependent child described in subdivision (a), sixty percent (60%)
12 of such individual's disposable earnings for that week;

13 except that, with respect to the disposable earnings of any individual
14 for any workweek, the fifty percent (50%) specified in subdivision (a)
15 shall be deemed to be fifty-five percent (55%) and the sixty percent
16 (60%) specified in subdivision (b) shall be deemed to be sixty-five
17 percent (65%), if and to the extent that such earnings are subject to
18 garnishment or support withholding to enforce a support order with
19 respect to a period which is prior to the twelve (12) week period which
20 ends with the beginning of such workweek.

21 (4) No court may make, execute, or enforce an order or process in
22 violation of this section.

23 (5) An employer who is required to make deductions from an
24 individual's disposable earnings pursuant to a garnishment order or
25 series of orders arising out of the same judgment debt (excluding a
26 judgment for payment of child support) may collect, as a fee to
27 compensate the employer for making these deductions, an amount
28 equal to the greater of twelve dollars (\$12) or three percent (3%) of the
29 total amount required to be deducted by the garnishment order or series
30 of orders arising out of the same judgment debt. If the employer
31 chooses to impose a fee, the fee shall be allocated as follows:

32 (a) One-half (1/2) of the fee shall be borne by the debtor, and that
33 amount may be deducted by the employer directly from the
34 employee's disposable earnings.

35 (b) One-half (1/2) of the fee shall be borne by the creditor, and
36 that amount may be retained by the employer from the amount
37 otherwise due the creditor.

38 The deductions made under this subsection for a collection fee do not
39 increase the amount of the judgment debt for which the fee is collected
40 for the purpose of calculating or collecting judgment interest. This fee
41 may be collected by an employer only once for each garnishment order
42 or series of orders arising out of the same judgment debt. The employer



1 may collect the entire fee from one (1) or more of the initial deductions
 2 from the employee's disposable earnings. Alternatively, the employer
 3 may collect the fee ratably over the number of pay periods during
 4 which deductions from the employee's disposable earnings are
 5 required.

6 (6) The deduction of the garnishment collection fee under
 7 subsection (5)(a) or subsection (7) is not an assignment of wages under
 8 IC 22-2-6.

9 (7) An employer who is required to make a deduction from an
 10 individual's disposable earnings in accordance with a judgment for
 11 payment of child support may collect a fee of two dollars (\$2) each
 12 time the employer is required to make the deduction. The fee may be
 13 deducted by the employer from the individual's disposable earnings
 14 each time the employer makes the deduction for support. If the
 15 employer elects to deduct such a fee, the amount to be deducted for the
 16 payment of support must be reduced accordingly if necessary to avoid
 17 exceeding the maximum amount permitted to be deducted under
 18 subsection (3).

19 (8) A support withholding order takes priority over a garnishment
 20 order irrespective of their dates of entry or activation. If a person is
 21 subject to a support withholding order and a garnishment order, the
 22 garnishment order shall be honored only to the extent that disposable
 23 earnings withheld under the support withholding order do not exceed
 24 the maximum amount subject to garnishment as computed under
 25 subsection (2).

26 SECTION 3. IC 32-30-3-17 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. (a) The clerk of a
 28 court shall enter in the civil order book all orders and decrees in any
 29 suit to quiet the title to real estate. After a court enters final judgment
 30 in a proceeding, the clerk shall certify a copy of the final judgment, ~~and~~
 31 ~~deliver the certified copy to the county recorder.~~ The clerk shall include
 32 the costs of a transcript of the proceedings ~~and the recording fees~~ in the
 33 costs of the proceeding.

34 **(b) The county recorder shall record the certified copy of the**
 35 **final judgment and shall collect any applicable recording fee.**

36 ~~(b)~~ (c) A county recorder shall procure a substantially bound book
 37 that is the size and quality of the county deed records. The book shall
 38 be known as the "Quiet Title Record". The Quiet Title Record must
 39 contain a transcript of each proceeding and an index to each transcript.
 40 The index must contain the following:

- 41 (1) An alphabetical list of plaintiffs.
 42 (2) The date of filing of the transcript.



1 (3) The date of the final judgment.

2 (4) The date on which the final judgment was recorded.

3 (5) A brief description of the real estate that was the subject of the
4 proceeding.

5 (6) The book and page on which the final judgment is recorded.

6 SECTION 4. IC 32-30-11-1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. Each clerk of the
8 circuit court shall keep a ~~book in the office of the clerk called the lis~~
9 ~~pendens record.~~ The lis pendens record is a public record. **The clerk**
10 **of the circuit court may keep the lis pendens record:**

11 **(1) in hard copy form; or**

12 **(2) in electronic form, if all information in the lis pendens**
13 **record is available to the public to inspect or copy in the**
14 **electronic form.**

15 SECTION 5. IC 33-31-1-5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) ~~The clerk and~~
17 ~~sheriff shall attend the court. and~~ **The clerk and the sheriff shall**
18 **discharge all the duties pertaining to their respective offices required**
19 **by law in the circuit court.**

20 (b) All laws:

21 (1) prescribing the duties and liability of the officers;

22 (2) prescribing the mode of proceeding against either or both of
23 the officers for any neglect of official duty; and

24 (3) allowing fees and providing for the collection of the fees;
25 in the circuit court, extend to the probate court, as applicable.

26 SECTION 6. IC 33-32-2-10 IS ADDED TO THE INDIANA CODE
27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
28 1, 2014]: **Sec. 10. (a) This section applies whenever the clerk is**
29 **required to send by registered or certified mail a document filed**
30 **with a court.**

31 **(b) The initial mailing of the document by registered or certified**
32 **mail sent:**

33 **(1) to each party who is required to receive the mailing; and**

34 **(2) to only one (1) of the party's addresses;**

35 **shall be paid out of court costs and fees collected under IC 33-37.**

36 **(c) If a person requests the clerk to send a mailing by registered**
37 **or certified mail after the initial mailing described in subsection**
38 **(b), the person shall pay the cost of the mailing.**

39 **(d) In a county where court postage costs are paid by the clerk's**
40 **office, the amount collected by the clerk for additional mailings by**
41 **registered or certified mail shall be deposited into the clerk's**
42 **record perpetuation fund established under IC 33-37-5-2. In a**



1 **county where court postage costs are paid out of the county general**
 2 **fund, the amount collected by the clerk for additional mailings by**
 3 **registered or certified mail shall be returned to the county general**
 4 **fund.**

5 SECTION 7. IC 33-32-3-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) The clerk shall
 7 endorse the time of filing on each writing required to be filed in the
 8 office of the clerk.

9 (b) The clerk shall carefully preserve in the office of the clerk all
 10 records and writings pertaining to the clerk's official duties.

11 (c) The clerk shall procure, at the expense of the county, all
 12 necessary judges' appearance, bar, judgment, and execution dockets,
 13 order books, and final record books.

14 (d) The clerk shall

15 ~~(1) attend, in person or by deputy, the circuit court of the county;~~
 16 ~~and~~

17 ~~(2) enter in proper record books all orders, judgments, and~~
 18 ~~decrees of the court.~~

19 (e) Not more than fifteen (15) days after the cases are finally
 20 determined, the clerk shall enter in final record books a complete
 21 record of:

22 (1) all cases involving the title to land;

23 (2) all criminal cases in which the punishment is death or
 24 imprisonment, except where a nolle prosequi is entered or an
 25 acquittal is had; and

26 (3) all other cases, at the request of either party and upon payment
 27 of the costs.

28 SECTION 8. IC 33-32-3-2 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) The clerk:

30 (1) shall keep a circuit court judgment docket; **and**

31 **(2) is the official keeper of the circuit court judgment docket.**

32 **(b) A judgment docket:**

33 **(1) must contain:**

34 **(A) all civil judgments in which one (1) party owes money**
 35 **to another party, including any court costs awarded to a**
 36 **judgment creditor; and**

37 **(B) any entry that is required by a statute; and**

38 **(2) may not include:**

39 **(A) judgments in which money is owed by a person to a**
 40 **state, a county, or another governmental entity as a result**
 41 **of:**

42 **(i) a criminal conviction; or**



- 1 (ii) a violation of an infraction or ordinance; or
 2 (B) except for cases in which the state obtains a judgment
 3 for unpaid taxes, judgments in which a governmental
 4 entity is the sole creditor.
- 5 (c) The clerk may keep a judgment docket in:
 6 (1) an electronic format;
 7 (2) a paper format; or
 8 (3) both an electronic and a paper format.
- 9 ~~(b)~~ (d) Upon the filing in the office of the clerk a statement or
 10 transcript of any judgment for the recovery of money or costs, the clerk
 11 shall enter, and index in alphabetical order, in this judgment docket a
 12 statement of the judgment showing the following:
 13 (1) The names of all the parties.
 14 (2) The name of the court.
 15 (3) The number of the cause.
 16 (4) The book and page of the record in which the judgment is
 17 recorded.
 18 (5) The date the judgment is entered and indexed.
 19 (6) The date of the rendition of judgment.
 20 (7) The amount of the judgment and the amount of costs.
- 21 ~~(e)~~ (e) If a judgment is against several persons, the statement
 22 required to be entered under subsection ~~(b)~~ (d) shall be repeated under
 23 the name of each judgment debtor in alphabetical order.
- 24 ~~(d)~~ (f) A person interested in any judgment for money or costs that
 25 has been rendered by any state court, or by any federal court of general
 26 original jurisdiction sitting in Indiana, may have the judgment entered
 27 upon the circuit court judgment docket by filing with the clerk:
 28 (1) a **verified** statement setting forth the facts required under
 29 subsection ~~(b)~~; (d); or
 30 (2) a ~~transcript~~ **verified copy** of the judgment certified under the
 31 ~~hand and~~ seal of the court that rendered the judgment.
- 32 (g) **The judgment docket shall be made available for public**
 33 **inspection at the office of the clerk during regular office hours. If**
 34 **a judgment docket is kept in an electronic format:**
 35 (1) **the judgment docket must be searchable; and**
 36 (2) **a member of the public must be able to:**
 37 (A) **search the judgment docket for the name of a specific**
 38 **party; and**
 39 (B) **obtain a list of all judgments in the judgment docket**
 40 **concerning the party.**
- 41 (h) **If the wages of a judgment debtor are being garnished, a**
 42 **clerk is not required to notify the employer of the judgment debtor**



1 to suspend the garnishment after the judgment is satisfied. A
 2 request to suspend the garnishment must be submitted by the
 3 judgment debtor to the court that rendered the judgment. The
 4 clerk is not required to take any action under this subsection
 5 concerning a garnishment other than to obey the orders of the
 6 court that rendered the judgment.

7 (i) Article 6, Section 2 of the Constitution of the State of Indiana
 8 states that the voters of each county shall elect a clerk of the circuit
 9 court. The general assembly recognizes that the clerk of the circuit
 10 court is a constitutional office located in a separate branch of
 11 government. A provision of this section that directs the clerk of the
 12 circuit court to engage in a certain activity:

13 (1) shall be considered advisory in nature; and

14 (2) may not be considered a mandate.

15 SECTION 9. IC 33-32-3-5 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) The clerk shall
 17 keep an execution docket.

18 (b) The clerk shall enter all executions on the execution docket as
 19 they are issued by the clerk, specifying in proper columns the following
 20 information:

21 (1) The names of the parties.

22 (2) The amount of the judgment and the interest due upon the
 23 issuing of the execution.

24 (3) The costs.

25 The clerk shall also prepare an additional column in which the clerk
 26 shall enter the return of the sheriff.

27 (c) The execution docket entries may be inspected and copied under
 28 IC 5-14-3-3.

29 (d) **The clerk may keep an execution docket:**

30 (1) **in hard copy form; or**

31 (2) **in electronic form, if all information in the execution**
 32 **docket is available to the public to inspect or copy in the**
 33 **electronic form.**

34 SECTION 10. IC 33-32-3-7 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) The clerk shall
 36 keep a register of witness fees and other court fees.

37 (b) When the clerk receives money in payment of court fees or fees
 38 for a witness or any other person, the clerk shall make an entry into the
 39 register recording the receipt of the payment.

40 (c) The register must contain the following information:

41 (1) The names, in alphabetical order, of persons for whom
 42 payment has been received.



- 1 (2) The cause for which the fee is paid.
- 2 (3) In which fee book and on which page the fee is taxed.
- 3 (4) The amount paid.
- 4 (5) When the fee was paid in and when it was paid out.
- 5 (d) The register must be ~~open~~ **available** for inspection at all times.
- 6 ~~in a conspicuous place in the clerk's office. The clerk may keep the~~
- 7 ~~register:~~
- 8 **(1) in hard copy form, in a conspicuous place in the clerk's**
- 9 **office; or**
- 10 **(2) in electronic form, if all information in the register is**
- 11 **available to the public to inspect or copy in the electronic**
- 12 **form.**

13 SECTION 11. IC 33-33-2-17 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. (a) The ~~clerk and~~
 15 sheriff shall attend the Allen superior court. ~~and~~ **The clerk and the**
 16 **sheriff shall** discharge all the duties pertaining to their respective
 17 offices as they are required to do by law in the circuit court.

18 (b) All laws prescribing the duties and liabilities of clerk and sheriff
 19 and the mode of proceeding against them, or either of them, for neglect
 20 of official duty, allowing fees, and providing for the collection fees in
 21 the circuit court, apply to the Allen superior court.

22 (c) In a case in the Allen superior court based upon a violation of a
 23 city ordinance where fines or forfeitures are adjudged against a party:
 24 (1) the fines or forfeitures shall be paid to and collected by the
 25 clerk and regularly remitted to the city clerk of the city that issued
 26 the ordinance; and
 27 (2) the city clerk shall disburse the fines or forfeitures as required
 28 by law.

29 Payment of fines for admitted parking violations shall be made to the
 30 city clerk of the city that issued the ordinances concerning parking
 31 violations.

32 SECTION 12. IC 33-33-3-3 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. The clerk of the
 34 Bartholomew circuit court is the clerk of the Bartholomew superior
 35 courts, and the sheriff of Bartholomew County is the sheriff of the
 36 Bartholomew superior courts. The ~~clerk and~~ sheriff shall attend the
 37 courts. ~~and~~ **The clerk and the sheriff shall** discharge all the duties
 38 pertaining to their respective offices as they are required to do by law
 39 with reference to the Bartholomew circuit court.

40 SECTION 13. IC 33-33-9-4 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. The clerk of the Cass
 42 circuit court shall serve as the clerk of each Cass superior court, and



1 the sheriff of Cass County shall serve as the sheriff of each Cass
 2 superior court. ~~They~~ **The sheriff** shall attend the courts. ~~and The clerk~~
 3 **and the sheriff shall** perform the same duties relating to their offices
 4 as they are required to do with respect to the Cass circuit court.

5 SECTION 14. IC 33-33-19-4 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. The clerk of the
 7 Dubois circuit court shall serve as the clerk of the Dubois superior
 8 court, and the sheriff of Dubois County shall serve as the sheriff of the
 9 Dubois superior court. ~~They~~ **The sheriff** shall attend the court. ~~and The~~
 10 **clerk and the sheriff shall** perform the same duties relating to their
 11 offices as they are required to do with respect to the Dubois circuit
 12 court.

13 SECTION 15. IC 33-33-79.2-4 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The clerk of the
 15 Tippecanoe circuit court shall be the clerk of superior court No. 2 of
 16 Tippecanoe County and the sheriff of Tippecanoe County shall be the
 17 sheriff of superior court No. 2 of Tippecanoe County. ~~The clerk and~~
 18 ~~sheriff shall attend court. and The clerk and the sheriff shall~~
 19 discharge all the duties pertaining to their respective ~~office offices~~ as
 20 they are required to do by law with reference to the Tippecanoe circuit
 21 court.

22 (b) The judge of superior court No. 2 of Tippecanoe County shall
 23 appoint a bailiff and an official reporter for the court to serve during the
 24 court. The judge shall fix their compensation within the limits and in
 25 the manner provided by law concerning bailiffs and official court
 26 reporters. The compensation shall be paid monthly out of the treasury
 27 of Tippecanoe County, in the manner provided by law.

28 SECTION 16. IC 33-34-1-5 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. ~~The judge of the~~
 30 ~~circuit court shall extend aid and assistance to the judges in the conduct~~
 31 ~~of all the township small claims courts elected under this article shall~~
 32 **select from among themselves a small claims administrative judge**
 33 **to carry out the duties of the small claims administrative judge**
 34 **under this article. The small claims administrative judge shall be**
 35 **selected for a minimum term of twelve (12) months.**

36 SECTION 17. IC 33-34-2-4 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) ~~The circuit court~~
 38 **small claims administrative** judge may establish a regular hourly
 39 schedule for the performance of duties by full-time or part-time
 40 township small claims courts, and each judge shall maintain that
 41 schedule.

42 (b) If the ~~circuit court~~ **small claims administrative** judge does not



1 establish a regular hourly schedule, the judge shall perform the judge's
2 duties at regular, reasonable hours.

3 (c) Regardless of whether a regular hourly schedule has been
4 established as set forth in subsection (a), a judge shall hold sessions in
5 addition to the judge's regular schedule whenever the business of the
6 judge's court requires.

7 SECTION 18. IC 33-34-2-9 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) A vacation of one
9 (1) month per year shall be provided for a judge who serves in a
10 full-time capacity.

11 (b) The ~~circuit court vacationing~~ judge may authorize the
12 appointment of a judge pro tempore to handle the judicial business of
13 the ~~vacationing judge~~, if the circuit court, judge considers it if
14 necessary.

15 SECTION 19. IC 33-34-3-6 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. The **small claims**
17 **administrative** judge of the ~~circuit court~~, assisted by **shall, in**
18 **coordination with all** the other judges of the small claims court, ~~shall~~
19 make and adopt uniform rules for conducting the business of the small
20 claims court:

21 (1) according to a simplified procedure; and

22 (2) in the spirit of sections 7 and 9 of this chapter.

23 SECTION 20. IC 33-37-1-2 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. ~~As used in this~~
25 ~~article~~; "Clerk" refers to any of the following:

26 **(1) For purposes of IC 33-37-1 through IC 33-37-11, a person**
27 **who is any of the following:**

28 (1) (A) A clerk of a circuit court under IC 33-32-2-1.

29 (2) (B) The clerk of a city or town court under IC 33-35.

30 (3) (C) The judge of a city or town court that does not have a
31 clerk.

32 **(2) For purposes of IC 33-37-12, a person who is a clerk of a**
33 **circuit court under IC 33-32-2-1.**

34 SECTION 21. IC 33-37-12 IS ADDED TO THE INDIANA CODE
35 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2014]:

37 **Chapter 12. Circuit Court Clerk Administrative Fee**

38 **Sec. 1. (a) This chapter applies to any amount that the clerk of**
39 **a circuit court is required to collect from a person, including:**

40 (1) bail;

41 (2) a fine;

42 (3) a civil penalty;



- 1 **(4) a court fee, court cost, or user fee imposed by the court; or**
 2 **(5) a fee for the preparation, duplication, or transmission of**
 3 **a document.**
- 4 **(b) This chapter does not apply to child support funds received**
 5 **by the clerk of a circuit court under IC 33-32-4.**
- 6 **Sec. 2. If the amount collected by the clerk of the circuit court**
 7 **is more than the amount required, the clerk shall:**
- 8 **(1) retain the administrative fee described in section 2 of this**
 9 **chapter; and**
- 10 **(2) refund the excess amount.**
- 11 **Sec. 3. (a) The clerk of a circuit court may retain as an**
 12 **administrative fee an amount of up to three dollars (\$3) from the**
 13 **excess amount collected by the clerk under section 3 of this**
 14 **chapter.**
- 15 **(b) The clerk shall deposit the amount retained as an**
 16 **administrative fee under subsection (a) in the clerk's record**
 17 **perpetuation fund established under IC 33-37-5-2.**
- 18 SECTION 22. IC 33-38-10-6 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) The clerk of the
 20 circuit court of the county in which the case is filed serves as the clerk
 21 of the court for a case heard by a private judge, and the sheriff of that
 22 county serves as the sheriff of the court for the case. ~~The clerk and the~~
 23 ~~sheriff shall attend the proceedings. and The clerk and the sheriff~~
 24 **shall** perform the same duties relating to their offices as are required
 25 for the circuit court of the county in which the case is filed.
- 26 (b) The clerk of the circuit court of the county in which the case is
 27 filed shall provide to a private judge for each case all books, dockets,
 28 papers, and printed blanks necessary to discharge the duties of the
 29 court.
- 30 SECTION 23. IC 34-35-5-2, AS AMENDED BY P.L.118-2007,
 31 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2014]: Sec. 2. Expenses to be paid under section 1 of this
 33 chapter include the following:
- 34 (1) The expense of keeping the prisoner, if any.
 35 (2) The expense of transporting the prisoner to or from any penal
 36 institution.
 37 (3) Any extraordinary expense for safekeeping the prisoner.
 38 (4) The fee set by the venue court under IC 33-40-2-5 for pauper
 39 counsel, if counsel was appointed by that court.
 40 (5) The expense of any mileage, meals, lodging, and per diems
 41 paid for or to jurors.
 42 (6) The per diems paid jury administrators for drawing any special



- 1 venire.
- 2 (7) The sum of five dollars (\$5) for each day or part of a day a
- 3 bailiff is engaged in assisting the court in the trial of the cause.
- 4 (8) The sum of eight dollars (\$8) for each day or part of a day an
- 5 official court reporter takes evidence or testimony before the
- 6 judge or jury concerning the cause.
- 7 (9) The sum of ten dollars (\$10) per day for each day of trial for
- 8 use of facilities and utilities.
- 9 (10) The sum of five dollars (\$5) for notifying the jury not to
- 10 attend court after having been summoned in any cause.
- 11 (11) The amount of telephone or telegraph communications made
- 12 by the court or authorized by it.
- 13 ~~(12) The per diem allowed by law to the clerk of the court for~~
- 14 ~~attending court.~~

15 SECTION 24. IC 34-35-5-7 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. ~~Except for the clerk,~~
 17 Not more than one (1) per diem or charge for the official reporting or
 18 for use of facilities and utilities shall be made against any county of
 19 origin of the causes for the same day. However, if two (2) or more
 20 proceedings are conducted in two (2) or more separate causes from any
 21 county or counties of origin on the same day, the court shall allocate
 22 the charges for any such cause as it may determine. The per diem for
 23 ~~the clerk,~~ the official court reporter or bailiff shall be paid by the
 24 county of trial in the first instance and reimbursement for that payment
 25 may be obtained from the county of origin.

26 SECTION 25. IC 34-35-5-8 IS REPEALED [EFFECTIVE JULY 1,
 27 2014]. Sec. 8: ~~The clerk is entitled to collect two dollars (\$2) from the~~
 28 ~~county treasury for each calendar day on which the clerk or the clerk's~~
 29 ~~deputy attends a court when it is occupied with business concerning~~
 30 ~~change of venue. The payment authorized under this section is not~~
 31 ~~affected by the number of items filed or the business transacted by the~~
 32 ~~court on that day.~~

33 SECTION 26. IC 34-55-8-7 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) **Except as**
 35 **provided in subsection (b),** after a hearing of which the judgment
 36 debtor has been notified, the court may order:

- 37 (1) any property, income, or profits of the judgment debtor not
- 38 exempt from execution or process, in the hands either of the
- 39 judgment debtor or of any other person; or
- 40 (2) any debt due to the judgment debtor;
- 41 to be applied to the satisfaction of the judgment and forbid transfers of
- 42 property and choses in action.



1 **(b) If the judgment debtor has failed to comply with an agreed**
 2 **order in the action, after a hearing of which the judgment debtor**
 3 **has been notified, the court shall order:**

4 **(1) any property, income, or profits of the judgment debtor**
 5 **not exempt from execution or process, in the hands either of**
 6 **the judgment debtor or of any other person; or**

7 **(2) any debt due to the judgment debtor;**
 8 **to be applied to the satisfaction of the judgment and forbid**
 9 **transfers of property and choses in action.**

10 ~~(b)~~ **(c) The judge may shall order that:**

11 (1) the judgment or execution is a continuing lien upon the
 12 income or profits of the judgment debtor in the hands either of the
 13 judgment debtor or any other person, governmental officer, or
 14 corporation from the date the order is served upon the person,
 15 governmental officer, or corporation indebted to the judgment
 16 debtor to the extent that the lien, together with all similar liens, is
 17 permitted under IC 24-4.5-5-105; and

18 (2) the court may enforce all orders and decrees in the premises,
 19 by attachment or otherwise.

20 ~~(e)~~ **(d) A court in an action for proceedings supplementary to**
 21 **execution shall issue an order directing a depository financial**
 22 **institution (as defined in IC 28-9-2) to place a hold on a deposit**
 23 **account in which the judgment debtor has an interest, either**
 24 **individually or jointly with another person, whenever the conditions**
 25 **prescribed under IC 28-9-3-4(d)(1) through IC 28-9-3-4(d)(3) are met.**

26 **An order issued under this subsection:**

27 (1) is subject to the limitations as to duration of the restriction and
 28 the amount to be restricted as specified under IC 28-9-4-2; and

29 (2) may be terminated or modified to reflect valid exemptions of
 30 a depositor that the court has considered.

31 ~~(d)~~ **(e) If an order for the placing of a hold on a deposit account is**
 32 **issued under subsection ~~(e)~~, (d), a person whose deposit account is**
 33 **affected may request a hearing from the court on the matter of:**

34 (1) the person's right to claim certain funds in the person's deposit
 35 account as exempt from garnishment; and

36 (2) whether the hold should be removed by the court.

37 ~~(e)~~ **(f) If a court receives a request for a hearing under subsection**
 38 **~~(d)~~, (e), the court shall hold a hearing on the matter within five (5) days**
 39 **(excluding Saturdays, Sundays, and legal holidays) after the court**
 40 **receives the request.**

41 ~~(f)~~ **(g) If a person whose deposit account is affected by the order**
 42 **issued under subsection ~~(e)~~ (d) files an affidavit with the court stating**



1 that the funds in the account are exempt from garnishment, the court
 2 may issue an order releasing the hold on the account without first
 3 conducting a hearing.

4 **(h) If a court has issued a garnishment order to a third party**
 5 **and the garnishment order no longer applies to the third party due**
 6 **to a change in circumstances, the court may cancel the**
 7 **garnishment order and issue a new garnishment order to an**
 8 **appropriate third party, if all of the following conditions are met:**

9 **(1) The court has issued a garnishment order under**
 10 **subsection (a) or (b) with respect to a judgment debtor's**
 11 **income or profits in the hands of a third party.**

12 **(2) The judgment constitutes a continuing lien under**
 13 **subsection (c).**

14 **(3) Due to a change in circumstances, including a change of**
 15 **employment, the judgment debtor's income or profits are in**
 16 **the hands of a new third party not named in the garnishment**
 17 **order.**

18 **(4) The judgment creditor files a petition:**

19 **(A) notifying the court of the matters described in**
 20 **subdivisions (1) through (3); and**

21 **(B) informing the court of the name, address, and other**
 22 **relevant information concerning the new third party**
 23 **holding the judgment debtor's income and profits.**

24 **A court may issue a new garnishment order under this subsection**
 25 **without holding a hearing.**

26 SECTION 27. [EFFECTIVE JULY 1, 2014] **(a) As used in this**
 27 **SECTION, "commission" refers to the commission on courts**
 28 **established by IC 33-23-10-1.**

29 **(b) The general assembly urges the legislative council to assign**
 30 **to the commission or another appropriate study committee the task**
 31 **of studying:**

32 **(1) small claims court administration;**

33 **(2) the jurisdictional amount in small claims actions; and**

34 **(3) venue and the distribution of judicial resources in small**
 35 **claims actions.**

36 **(c) If the commission or another appropriate committee is**
 37 **assigned the topic described in subsection (b), the commission or**
 38 **committee shall issue to the legislative council a final report**
 39 **containing the commission's or committee's findings and**
 40 **recommendations, including any recommended legislation**
 41 **concerning the topic, in an electronic format under IC 5-14-6 not**
 42 **later than November 1, 2014.**



1 **(d) This SECTION expires January 1, 2015.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1347, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 39, delete "via electronic access." and insert **"to the public to inspect or copy in the electronic form."**

Page 4, line 28, delete "via electronic access." and insert **"to the public to inspect or copy in the electronic form."**

Page 5, line 6, delete "via electronic access." and insert **"to the public to inspect or copy in the electronic form."**

and when so amended that said bill do pass.

(Reference is to HB 1347 as introduced.)

MCMILLIN, Chair

Committee Vote: yeas 7, nays 0.

 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1347, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 9 and 10, begin a new paragraph and insert:
 "SECTION 2. IC 24-4.5-5-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 105. (1) For the purposes of IC 24-4.5-5-101 through IC 24-4.5-5-108:

- (a) "disposable earnings" means that part of the earnings of an individual, including wages, commissions, income, rents, or profits remaining after the deduction from those earnings of amounts required by law to be withheld;
- (b) "garnishment" means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by a garnishee, by the individual debtor, or by any other person for the payment of a judgment; and
- (c) "support withholding" means that part of the earnings that are withheld from an individual for child support in accordance with the laws of this state.

(2) Except as provided in subsection (8), the maximum part of the

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aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce the payment of one (1) or more judgments against ~~him~~ **the individual** may not exceed **the lesser of the following amounts:**

(a) **An amount equal to** twenty-five percent (25%) of ~~his~~ **the individual's** disposable earnings for that week or, **upon a showing of good cause by the individual why the amount should be reduced, an amount equal to:**

(i) less than twenty-five percent (25%); and

(ii) at least ten percent (10%);

of the individual's disposable earnings for that week.

(b) The amount by which ~~his~~ **the individual's** disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable.

~~whichever is less.~~ In the case of earnings for a pay period other than a week, the earnings shall be computed upon a multiple of the federal minimum hourly wage equivalent to thirty (30) times the federal minimum hourly wage as prescribed in this section.

(3) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or support withholding to enforce any order for the support of any person shall not exceed:

(a) where such individual is supporting ~~his~~ **the individual's** spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual's disposable earnings for that week; and

(b) where such individual is not supporting such a spouse or dependent child described in subdivision (a), sixty percent (60%) of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subdivision (a) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subdivision (b) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or support withholding to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

(4) No court may make, execute, or enforce an order or process in violation of this section.

(5) An employer who is required to make deductions from an individual's disposable earnings pursuant to a garnishment order or



series of orders arising out of the same judgment debt (excluding a judgment for payment of child support) may collect, as a fee to compensate the employer for making these deductions, an amount equal to the greater of twelve dollars (\$12) or three percent (3%) of the total amount required to be deducted by the garnishment order or series of orders arising out of the same judgment debt. If the employer chooses to impose a fee, the fee shall be allocated as follows:

- (a) One-half (1/2) of the fee shall be borne by the debtor, and that amount may be deducted by the employer directly from the employee's disposable earnings.
- (b) One-half (1/2) of the fee shall be borne by the creditor, and that amount may be retained by the employer from the amount otherwise due the creditor.

The deductions made under this subsection for a collection fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collecting judgment interest. This fee may be collected by an employer only once for each garnishment order or series of orders arising out of the same judgment debt. The employer may collect the entire fee from one (1) or more of the initial deductions from the employee's disposable earnings. Alternatively, the employer may collect the fee ratably over the number of pay periods during which deductions from the employee's disposable earnings are required.

(6) The deduction of the garnishment collection fee under subsection (5)(a) or subsection (7) is not an assignment of wages under IC 22-2-6.

(7) An employer who is required to make a deduction from an individual's disposable earnings in accordance with a judgment for payment of child support may collect a fee of two dollars (\$2) each time the employer is required to make the deduction. The fee may be deducted by the employer from the individual's disposable earnings each time the employer makes the deduction for support. If the employer elects to deduct such a fee, the amount to be deducted for the payment of support must be reduced accordingly if necessary to avoid exceeding the maximum amount permitted to be deducted under subsection (3).

(8) A support withholding order takes priority over a garnishment order irrespective of their dates of entry or activation. If a person is subject to a support withholding order and a garnishment order, the garnishment order shall be honored only to the extent that disposable earnings withheld under the support withholding order do not exceed the maximum amount subject to garnishment as computed under



subsection (2)."

Page 4, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 8. IC 33-32-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) The clerk:

- (1) shall keep a circuit court judgment docket; **and**
- (2) **is the official keeper of the circuit court judgment docket.**

(b) A judgment docket:

(1) must contain:

(A) all civil judgments in which one (1) party owes money to another party, including any court costs awarded to a judgment creditor; and

(B) any entry that is required by a statute; and

(2) may not include:

(A) judgments in which money is owed by a person to a state, a county, or another governmental entity as a result of:

(i) a criminal conviction; or

(ii) a violation of an infraction or ordinance; or

(B) except for cases in which the state obtains a judgment for unpaid taxes, judgments in which a governmental entity is the sole creditor.

(c) The clerk may keep a judgment docket in:

(1) an electronic format;

(2) a paper format; or

(3) both an electronic and a paper format.

~~(b)~~ **(d)** Upon the filing in the office 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.

~~(e)~~ **(e)** If a judgment is against several persons, the statement required to be entered under subsection ~~(b)~~ **(d)** shall be repeated under the name of each judgment debtor in alphabetical order.

~~(d)~~ **(f)** A person interested in any judgment for money or costs that has been rendered by any 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 **verified** statement setting forth the facts required under subsection ~~(b)~~; **(d)**; or
- (2) a **transcript verified copy** of the judgment certified under the ~~hand and~~ seal of the court that rendered the judgment.

(g) The judgment docket shall be made available for public inspection at the office of the clerk during regular office hours. If a judgment docket is kept in an electronic format:

- (1) the judgment docket must be searchable; and**
- (2) a member of the public must be able to:**
 - (A) search the judgment docket for the name of a specific party; and**
 - (B) obtain a list of all judgments in the judgment docket concerning the party.**

(h) If the wages of a judgment debtor are being garnished, a clerk is not required to notify the employer of the judgment debtor to suspend the garnishment after the judgment is satisfied. A request to suspend the garnishment must be submitted by the judgment debtor to the court that rendered the judgment. The clerk is not required to take any action under this subsection concerning a garnishment other than to obey the orders of the court that rendered the judgment.

(i) Article 6, Section 2 of the Constitution of the State of Indiana states that the voters of each county shall elect a clerk of the circuit court. The general assembly recognizes that the clerk of the circuit court is a constitutional office located in a separate branch of government. A provision of this section that directs the clerk of the circuit court to engage in a certain activity:

- (1) shall be considered advisory in nature; and**
- (2) may not be considered a mandate."**

Page 6, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 16. IC 33-34-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. The ~~judge of the circuit court shall extend aid and assistance to the judges in the conduct of all the township small claims courts~~ **elected under this article shall select from among themselves a small claims administrative judge to carry out the duties of the small claims administrative judge under this article. The small claims administrative judge shall be selected for a minimum term of twelve (12) months.**

SECTION 17. IC 33-34-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The ~~circuit court~~



small claims administrative judge may establish a regular hourly schedule for the performance of duties by full-time or part-time township small claims courts, and each judge shall maintain that schedule.

(b) If the ~~ircuit court~~ **small claims administrative** judge does not establish a regular hourly schedule, the judge shall perform the judge's duties at regular, reasonable hours.

(c) Regardless of whether a regular hourly schedule has been established as set forth in subsection (a), a judge shall hold sessions in addition to the judge's regular schedule whenever the business of the judge's court requires.

SECTION 18. IC 33-34-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) A vacation of one (1) month per year shall be provided for a judge who serves in a full-time capacity.

(b) The ~~ircuit court~~ **vacationing** judge may authorize the appointment of a judge pro tempore to handle the judicial business of the ~~vacationing judge~~, if the circuit court, judge considers it if necessary.

SECTION 19. IC 33-34-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. The **small claims administrative** judge of the ~~ircuit court~~, ~~assisted by shall, in coordination with all the other~~ 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 7 and 9 of this chapter."

Page 8, after line 34, begin a new paragraph and insert:

"SECTION 26. IC 34-55-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) **Except as provided in subsection (b)**, after a hearing of which the judgment debtor has been notified, the court may order:

- (1) any property, income, or profits of the judgment debtor not exempt from execution or process, in the hands either of the judgment debtor or of any other person; or
- (2) any debt due to the judgment debtor;

to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action.

(b) If the judgment debtor has failed to comply with an agreed order in the action, after a hearing of which the judgment debtor has been notified, the court shall order:

- (1) any property, income, or profits of the judgment debtor**



not exempt from execution or process, in the hands either of the judgment debtor or of any other person; or
(2) any debt due to the judgment debtor;
to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action.

~~(b)~~ **(c)** The judge ~~may~~ **shall** order that:

(1) the judgment or execution is a continuing lien upon the income or profits of the judgment debtor in the hands either of the judgment debtor or any other person, governmental officer, or corporation from the date the order is served upon the person, governmental officer, or corporation indebted to the judgment debtor to the extent that the lien, together with all similar liens, is permitted under IC 24-4.5-5-105; and

(2) the court may enforce all orders and decrees in the premises, by attachment or otherwise.

~~(e)~~ **(d)** A court in an action for proceedings supplementary to execution shall issue an order directing a depository financial institution (as defined in IC 28-9-2) to place a hold on a deposit account in which the judgment debtor has an interest, either individually or jointly with another person, whenever the conditions prescribed under IC 28-9-3-4(d)(1) through IC 28-9-3-4(d)(3) are met. An order issued under **this subsection:**

(1) is subject to the limitations as to duration of the restriction and the amount to be restricted as specified under IC 28-9-4-2; and

(2) may be terminated or modified to reflect valid exemptions of a depositor that the court has considered.

~~(d)~~ **(e)** If an order for the placing of a hold on a deposit account is issued under subsection ~~(e)~~; **(d)**, a person whose deposit account is affected may request a hearing from the court on the matter of:

(1) the person's right to claim certain funds in the person's deposit account as exempt from garnishment; and

(2) whether the hold should be removed by the court.

~~(e)~~ **(f)** If a court receives a request for a hearing under subsection ~~(d)~~; **(e)**, the court shall hold a hearing on the matter within five (5) days (excluding Saturdays, Sundays, and legal holidays) after the court receives the request.

~~(f)~~ **(g)** If a person whose deposit account is affected by the order issued under subsection ~~(e)~~ **(d)** files an affidavit with the court stating that the funds in the account are exempt from garnishment, the court may issue an order releasing the hold on the account without first conducting a hearing.

(h) If a court has issued a garnishment order to a third party



and the garnishment order no longer applies to the third party due to a change in circumstances, the court may cancel the garnishment order and issue a new garnishment order to an appropriate third party, if all of the following conditions are met:

- (1) The court has issued a garnishment order under subsection (a) or (b) with respect to a judgment debtor's income or profits in the hands of a third party.
- (2) The judgment constitutes a continuing lien under subsection (c).
- (3) Due to a change in circumstances, including a change of employment, the judgment debtor's income or profits are in the hands of a new third party not named in the garnishment order.
- (4) The judgment creditor files a petition:
 - (A) notifying the court of the matters described in subdivisions (1) through (3); and
 - (B) informing the court of the name, address, and other relevant information concerning the new third party holding the judgment debtor's income and profits.

A court may issue a new garnishment order under this subsection without holding a hearing.

SECTION 27. [EFFECTIVE JULY 1, 2014] (a) As used in this SECTION, "commission" refers to the commission on courts established by IC 33-23-10-1.

(b) The general assembly urges the legislative council to assign to the commission or another appropriate study committee the task of studying:

- (1) small claims court administration;
- (2) the jurisdictional amount in small claims actions; and
- (3) venue and the distribution of judicial resources in small claims actions.

(c) If the commission or another appropriate committee is assigned the topic described in subsection (b), the commission or committee shall issue to the legislative council a final report containing the commission's or committee's findings and recommendations, including any recommended legislation



concerning the topic, in an electronic format under IC 5-14-6 not later than November 1, 2014.

(d) This SECTION expires January 1, 2015."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1347 as printed January 27, 2014.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

