

SENATE BILL No. 148

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-33-45.

Synopsis: Election of Lake County juvenile judge. Provides that a vacancy in the judgeship of the juvenile division of the Lake County superior court (court) is filled by the governor rather than by the governor from a list of names submitted by the Lake County judicial nominating commission. Provides that in appointing magistrates, the juvenile judge of the court shall strive to reflect the ethnic and racial demographics of Lake County. Provides that the judge of the juvenile division of the court is elected in a partisan election instead of being subject to a retention election as are the other judges of the court.

Effective: July 1, 2018.

Randolph Lonnie M

January 3, 2018, read first time and referred to Committee on Judiciary.



Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 148

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 33-33-45-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 12. (a) The senior judge
3 of each division may appoint the number of bailiffs, court reporters,
4 probation officers, and other personnel as the senior judge believes is
5 necessary to judicially and efficiently facilitate and transact the
6 business of the division. All appointments shall be made without regard
7 to the political affiliation of the appointees. The salaries of the court
8 personnel shall be fixed and paid as provided by law. The officers and
9 persons appointed shall:
10 (1) perform the duties prescribed by the senior judge of each
11 respective division; and
12 (2) serve at the pleasure of the senior judge.
13 (b) The court shall appoint an administrative officer who has the
14 duties the court determines are necessary to ensure the efficient
15 operation of the court. The court may appoint the number of deputy
16 administrative officers as the court considers necessary to facilitate and
17 transact the business of the court. Any appointment of an



1 administrative officer or deputy administrative officer shall be made
 2 without regard to the political affiliation of the appointees. The salaries
 3 of the administrative officer and any deputy administrative officer shall
 4 be fixed by the court, to be paid out of the county treasury by the
 5 county auditor, upon the order of the court, and entered of record. Any
 6 administrative officer or deputy administrative officer appointed by the
 7 court shall:

8 (1) operate under the jurisdiction of the chief judge; and

9 (2) serve at the pleasure of the chief judge.

10 (c) The court may appoint part-time juvenile referees and
 11 magistrates as provided by IC 31-31-3.

12 (d) The court may appoint the number of probate commissioners
 13 provided for by IC 29-2-2. The probate commissioners shall be vested
 14 with the powers and duties provided by IC 29.

15 **(e) In appointing magistrates for the juvenile division, the judge**
 16 **of the juvenile division shall strive to reflect the ethnic and racial**
 17 **demographics of the county.**

18 SECTION 2. IC 33-33-45-21, AS AMENDED BY P.L.201-2011,
 19 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2018]: Sec. 21. (a) The court is divided into civil (including
 21 probate), criminal, county, and juvenile divisions. The work of the
 22 court shall be divided among the divisions by the rules of the court.

23 (b) Seven (7) judges comprise the civil division. Four (4) judges
 24 comprise the criminal division. Four (4) judges comprise the county
 25 division. One (1) judge comprises the juvenile division. However, the
 26 court by rule may alter the number of judges assigned to a division of
 27 the court, **except for the juvenile division**, if the court determines that
 28 the change is necessary for the efficient operation of the court.

29 (c) **This subsection does not apply to the juvenile division.** The
 30 court by rule may reassign a judge of the court from one (1) division to
 31 another if the court determines that the change is necessary for the
 32 efficient operation of the court. The court by rule may establish a
 33 rotation schedule providing for the rotation of judges through the
 34 various divisions. The rotation schedule may be used if the court
 35 determines that an emergency exists. However, a senior judge of any
 36 division may not be reassigned or rotated to another division under this
 37 subsection.

38 (d) **This subsection does not apply to the juvenile division.** The
 39 chief judge of the court may assign a judge in one (1) division of the
 40 court to hear a case originating in another division of the court, and
 41 may reassign cases from one (1) judge to another, if the chief judge
 42 determines that the change is necessary for the efficient operation of



1 the court.

2 (e) A judge of a division of the court who has not been appointed to
3 the court under section 38 of this chapter is not eligible to be
4 reassigned, rotated, or transferred to the other divisions of the court.
5 However, a judge of a division of the court who has not been appointed
6 to the court under section 38 of this chapter may apply to fill a vacancy
7 in another division of the court through appointment as provided under
8 this chapter.

9 SECTION 3. IC 33-33-45-25, AS AMENDED BY P.L.201-2011,
10 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2018]: Sec. 25. **(a) This section does not apply to the judge
12 of the juvenile division.**

13 ~~(a)~~ **(b)** At the general election immediately preceding the expiration
14 of a judge's extended term, the question of that judge's retention in
15 office or rejection shall be submitted to the electorate of Lake County
16 under section 42 of this chapter. Thereafter, unless rejected by the
17 electorate, each judge shall serve successive terms as provided in
18 section ~~41(b)~~ **41(c)** of this chapter.

19 ~~(b)~~ **(c)** A judge of the county division serving on June 30, 2011, is
20 subject to the question of the judge's retention in office or rejection as
21 provided in subsection ~~(a)~~ **(b)** at the expiration of the judge's term of
22 office under the law in effect on June 30, 2011.

23 SECTION 4. IC 33-33-45-26.9 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2018]: **Sec. 26.9. (a) Sections 27, 28, 29, 30,
26 31, 32, 33, 34, 35, 36, 37, and 38 of this chapter do not apply to the
27 judge of the juvenile division.**

28 **(b) The judge of the juvenile division shall be elected as
29 provided in section 46 of this chapter.**

30 **(c) If a vacancy occurs in the office of the judge of the juvenile
31 division, the governor shall fill the vacancy, notwithstanding
32 sections 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, and 38 of this
33 chapter.**

34 SECTION 5. IC 33-33-45-32 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 32. After:

36 (1) the attorney members of the commission have been elected;
37 and

38 (2) the names of the nonattorney commissioners appointed by the
39 **governor Lake County board of commissioners** have been
40 certified to the secretary of state, clerk of the supreme court, and
41 clerk of the Lake circuit court as this chapter provides;

42 the clerk of the Lake circuit court shall by regular mail notify the



1 members of the commission of their election or appointment and shall
2 notify the chairman of the judicial nominating commission of the same.

3 SECTION 6. IC 33-33-45-41, AS AMENDED BY P.L.74-2017,
4 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2018]: Sec. 41. **(a) This section does not apply to the judge
6 of the juvenile division of the court.**

7 ~~(a)~~ **(b)** Each judge appointed under section 38 of this chapter serves
8 an initial term, which begins on the effective date of the appointment
9 of the judge and continues through December 31 in the year of the
10 general election that follows the expiration of two (2) years after the
11 effective date of the judge's appointment.

12 ~~(b)~~ **(c)** Unless the judge:

13 (1) is rejected by the electorate of Lake County; or

14 (2) does not file the statement required;

15 under section 42 of this chapter, a judge of the superior court shall
16 serve successive six (6) year terms.

17 ~~(c)~~ **(d)** Each six (6) year term begins on the first day of January
18 following the expiration of the preceding initial term or the preceding
19 six (6) year term, as the case may be, and continues for six (6) years.

20 SECTION 7. IC 33-33-45-42, AS AMENDED BY P.L.74-2017,
21 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2018]: Sec. 42. **(a) This section does not apply to the judge
23 of the juvenile division of the court.**

24 ~~(a)~~ **(b)** The question of the retention in office or rejection of each
25 judge of the superior court of Lake County shall be submitted to the
26 electorate of Lake County at the general election immediately
27 preceding expiration of the term of the judge.

28 ~~(b)~~ **(c)** At the general election, the question of the retention in office
29 or rejection of a judge described in subsection ~~(a)~~ **(b)** shall be
30 submitted to the electorate of Lake County in the form prescribed by
31 IC 3-11 and must state "Shall Judge (insert name) of the superior court
32 of Lake County be retained in office for an additional term?".

33 ~~(c)~~ **(d)** If a majority of the ballots cast by the electors voting on any
34 question is "Yes", the judge whose name appeared on the question shall
35 be approved for a six (6) year term beginning January 1 following the
36 general election as provided in section ~~41(b)~~ **41(c)** of this chapter.

37 ~~(d)~~ **(e)** If a majority of the ballots cast by the electors voting on any
38 question is "No", the judge whose name appeared on the question shall
39 be rejected. The office of the rejected judge is vacant on January 1
40 following the rejection. The vacancy shall be filled by appointment by
41 the governor under section 38 of this chapter.

42 ~~(e)~~ **(f)** The Lake County election board shall submit the question of



1 the retention in office or rejection of a judge described in subsection (a)
 2 (b) to the electorate of Lake County. The submission of the question is
 3 subject to the provisions of IC 3 that are not inconsistent with this
 4 chapter.

5 (f) (g) A judge who wishes to be retained in office shall file a
 6 statement with the secretary of state, not later than noon July 15 of the
 7 year in which the question of retention of the judge is to be placed on
 8 the general election ballot, indicating that the judge wishes to have the
 9 question of the judge's retention placed on the ballot. The judge's
 10 statement must include a statement of the judge's name as:

- 11 (1) the judge wants the judge's name to appear on the ballot; and
- 12 (2) the candidate's name is permitted to appear on the ballot under
 13 IC 3-5-7.

14 (g) (h) If a judge does not file the statement required under
 15 subsection (f); (g), the question of that judge's retention in office or
 16 rejection shall not be submitted to the electorate, and the office
 17 becomes vacant at the expiration of the term.

18 SECTION 8. IC 33-33-45-44, AS AMENDED BY P.L.201-2011,
 19 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2018]: Sec. 44. (a) A judge of the superior court may not
 21 during a term of office as judge of the superior court do any of the
 22 following:

- 23 (1) Engage in the practice of law.
- 24 (2) Run for elective office, **other than for judge of the juvenile**
 25 **division of the court.**
- 26 (3) Take part in any political campaign.

27 (b) Failure to comply with this section is sufficient cause for the
 28 commission on judicial qualifications to recommend to the supreme
 29 court that the judge be censured or removed.

30 (c) A political party may not directly or indirectly campaign for or
 31 against a judge subject to retention, **or** rejection, **or election** under this
 32 chapter.

33 SECTION 9. IC 33-33-45-46 IS ADDED TO THE INDIANA
 34 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2018]: **Sec. 46. (a) This section applies only**
 36 **to the judge of the juvenile division of the court.**

37 (b) **The judge of the juvenile division shall be elected in an**
 38 **election every six (6) years in the same manner as a circuit judge**
 39 **under IC 3-10-2-11.**

40 (c) **During the period under IC 3-8-2-4 in which a declaration of**
 41 **candidacy may be filed for a primary election, an individual who**
 42 **wants to become a candidate for the office of judge of the juvenile**



1 division must file with the election division a declaration of
2 candidacy adapted from the form prescribed under IC 3-8-2,
3 signed by the candidate. To be eligible for election, a candidate
4 must satisfy all of the following:

- 5 (1) The candidate must be a resident of Lake County.
- 6 (2) The candidate must be a citizen of the United States.
- 7 (3) The candidate must be admitted to the practice of law in
8 Indiana.

9 (d) If an individual who files a declaration under subsection (c)
10 ceases to be a candidate after the final date for filing a declaration
11 under subsection (c), the election division may accept the filing of
12 additional declarations of candidacy for that judgeship not later
13 than noon August 1.

14 (e) All candidates for judge of the juvenile division shall be
15 listed on the general election ballot in the form prescribed by
16 IC 3-11, without party designation. The candidate receiving the
17 highest number of votes for the office of judge of the juvenile
18 division of the court is elected to that office.

19 (f) IC 3, where not inconsistent with this section, applies to
20 elections under this section.

21 SECTION 10. IC 33-33-45-46.3 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2018]: **Sec. 46.3. (a) This section applies only**
24 **to the election of the judge of the juvenile division of the court.**

25 (b) The first election of the judge under section 46 of this
26 chapter is the 2022 general election.

27 (c) The individual elected at the 2022 general election takes
28 office January 1, 2023, and serves a term of six (6) years until
29 January 1, 2029.

30 (d) This section expires July 1, 2029.

