

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 149

---

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 33-33-49-15, AS AMENDED BY P.L.201-2011, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: 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~~ **judicial officers and 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.~~ **adequate resources necessary to effectively run court operations.** Each judge shall appoint the ~~judge's court reporters, bailiffs, secretary, commissioners, and clerks.~~ **judicial assistant who will also serve as the judge's official court reporter.** All other staff assignments will be determined by the executive committee in conjunction with the general term. The staffing requirements set forth in IC 33-29-1-5 do not apply to the Marion superior court. 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 should** 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 a 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.

(d) Notwithstanding any other law, a commissioner appointed under this chapter has all of the powers and duties prescribed for a magistrate under IC 33-23-5. However, the provisions of IC 33-23-5-11 requiring the state to pay the salary of a magistrate do not require the state to pay the salary of a commissioner appointed under this chapter.

(e) If a commissioner appointed under this chapter is appointed as a magistrate in Marion County, the salary of that magistrate shall be paid by the state under IC 33-23-5-11 in the same amount as other magistrates are paid.

(f) The allocation of appointments of commissioners under this chapter shall be determined by agreement between the judges of the superior court and the judge of the circuit court with consideration given to the case load of each court. However, notwithstanding any other law, at least two (2) of the commissioners appointed under this chapter shall be appointed by the judge of the circuit court.

(g) The:

- (1) judge of the circuit court has exclusive authority to appoint commissioners allocated to the circuit court; and
- (2) judges of the superior court have exclusive authority to appoint commissioners allocated to the superior court by a vote of the majority of the judges of the superior court.

(h) Not more than a simple majority of the commissioners appointed under this chapter may be from the same political party.

(i) A commissioner appointed by the:

- (1) judge of the circuit court serves at the pleasure of the judge of the circuit court; and
- (2) judges of the superior court continues in office until removed pursuant to local rule.

SECTION 2. IC 33-33-49-16, AS AMENDED BY P.L.162-2020, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 16. (a) An appointed ~~probate hearing judge or probate commissioner~~ **judicial officer** shall be vested by the judge



**judges** of the **probate family** 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) Accepting reports, accounts, and settlements filed in the court.
- (4) Appointing 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) Enforcing court rules.
- (8) Making reports to the court concerning the **judge's** or **commissioner's judicial officer's** doings in the proceedings described in this subsection, including reports concerning the **commissioner's judicial officer'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) 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 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 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 33-23-5-6 through IC 33-23-5-8.5. 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 3. IC 33-33-49-30, AS AMENDED BY P.L.201-2011, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: 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 must be forwarded to the commission on judicial qualifications as provided in IC 33-38-13 by any judge of the superior court.

(c) If the judge wishes to retire before the judge's term has ended, 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) When 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.~~ **a successor judge shall be appointed as described in section 13.4 of this chapter.** The successor judge must be a member of the same political party as the judge who is to be succeeded.

SECTION 4. IC 33-34-8-1, AS AMENDED BY P.L.38-2021, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

(1) A township docket fee of five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.



- (2) The bailiff's service of process by registered or certified mail fee of fifteen dollars (\$15) for each service.
- (3) The cost for the personal service of process by the bailiff or other process server of fifteen dollars (\$15) for each service.
- (4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.
- (5) A redocketing fee, if any, of five dollars (\$5).
- (6) A document storage fee under IC 33-37-5-20.
- (7) An automated record keeping fee under IC 33-37-5-21.
- (8) A late fee, if any, under IC 33-37-5-22.
- (9) A public defense administration fee under IC 33-37-5-21.2.
- (10) A judicial insurance adjustment fee under IC 33-37-5-25.
- (11) A judicial salaries fee under IC 33-37-5-26.
- (12) A court administration fee under IC 33-37-5-27.
- (13) Before July 1, 2022, a pro bono legal services fee under IC 33-37-5-31.

**(14) A sheriff's service of process fee under IC 33-37-5-15 for each service of process performed outside Marion County.**

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. 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 5. IC 33-37-1-2, AS AMENDED BY P.L.78-2014, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. **As used in this article**, "clerk" refers to **any of the following**:

- (1) For purposes of ~~IC 33-37-1 through IC 33-37-11~~, a person who is any of the following:
  - (A) A clerk of a circuit court under ~~IC 33-32-2-1~~.
  - (B) The clerk of a city or town court under IC 33-35.
  - (C) The judge of a city or town court that does not have a clerk.
- (2) For purposes of ~~IC 33-37-12~~, a person who is a clerk of a circuit court under ~~IC 33-32-2-1~~.
  - (1) A clerk of a circuit court under IC 33-32-2-1.
  - (2) The clerk of a city or town court under IC 33-35.
  - (3) The judge of a city or town court that does not have a clerk.

SECTION 6. IC 33-37-5-2, AS AMENDED BY P.L.38-2021,



SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit all the following in the fund:

- (1) Revenue received by the clerk for transmitting documents by facsimile machine to a person under IC 5-14-3.
- (2) Document storage fees required under section 20 of this chapter.
- (3) The late payment fees imposed under section 22 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-37-7-2.
- (4) The fees required under IC 29-1-7-3.1 for deposit of a will.
- (5) Fees for preparing a transcript or copy of any record under section 1 of this chapter.
- (6) Two dollars (\$2) for each marriage certificate issued by the clerk under IC 33-32-5-1.
- (7) The amount retained as an administrative fee under IC 33-37-12-3.**

(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.
- (3) The operation of a case management system.

SECTION 7. IC 33-37-5-15, AS AMENDED BY P.L.161-2018, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 15. (a) **This section also applies to a clerk of a township small claims court described in IC 33-34 for service of process fees collected under IC 33-34-8-1.**

(b) The clerk of the county that maintains jurisdiction over the case shall collect a service of process fee of twenty-eight dollars (\$28) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff. A service of process fee collected under this subsection may be collected only one (1) time per case for the duration of the case. However, a clerk of the county that maintains jurisdiction over the case shall collect an additional service of process fee of twenty-eight dollars (\$28) per case for any postjudgment service.

~~(b)~~ (c) The clerk shall collect from the person who filed the civil action a service of process fee of sixty dollars (\$60), 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 associated with the civil action in Indiana.



~~(c)~~ (d) A clerk shall transfer fees collected under this section to the county auditor.

~~(d)~~ (e) The county auditor shall deposit fees collected under this section as follows:

(1) One dollar (\$1) from each service of process fee described in subsection ~~(a)~~ (b) into the clerk's record perpetuation fund established by the clerk under section 2 of this chapter.

(2) Twenty-seven dollars (\$27) from each service of process fee described in subsection ~~(a)~~ (b) into either:

(A) the pension trust established by the county under IC 36-8-10-12; or

(B) if the county has not established a pension trust under IC 36-8-10-12, the county general fund.

SECTION 8. IC 33-37-12-1, AS ADDED BY P.L.78-2014, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) This chapter applies to any amount that the clerk ~~of a circuit court~~ is required to collect from a person, including:

(1) bail;

(2) a fine;

(3) a civil penalty;

(4) a court fee, court cost, or user fee imposed by the court; or

(5) a fee for the preparation, duplication, or transmission of a document.

(b) This chapter does not apply to child support funds received by the clerk of a circuit court under IC 33-32-4.

SECTION 9. IC 33-37-12-2, AS ADDED BY P.L.78-2014, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. If the amount collected by the clerk ~~of the circuit court~~ is more than the amount required, the clerk shall:

(1) retain the administrative fee described in section 3 of this chapter; and

(2) refund the excess amount.

SECTION 10. IC 33-37-12-3, AS ADDED BY P.L.78-2014, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) The clerk ~~of a circuit court~~ may retain as an administrative fee an amount of up to three dollars (\$3) from the excess amount collected by the clerk under section 2 of this chapter.

(b) The clerk shall deposit the amount retained as an administrative fee under subsection (a) in the clerk's record perpetuation fund established under IC 33-37-5-2.



---

President of the Senate

---

President Pro Tempore

---

Speaker of the House of Representatives

---

Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

SEA 149 — CC 1

