



Reprinted
February 24, 2010

ENGROSSED
HOUSE BILL No. 1154

DIGEST OF HB 1154 (Updated February 23, 2010 3:00 pm - DI 69)

Citations Affected: IC 33-27; IC 33-33; IC 34-28.

Synopsis: Marion County courts. Provides that a commissioner appointed in the Marion County courts has all of the powers and duties prescribed for a magistrate. Allows a Marion County commissioner who exercises the powers and duties of a magistrate to serve as a senior judge. Specifies that if a commissioner appointed in Marion County is appointed as a magistrate, the salary of that magistrate shall be paid by the state in the same amount as other magistrates are paid. Provides for the allocation of appointments of commissioners in Marion County. Provides that in addition to any judgment otherwise entered in Marion County for a traffic violation constituting an infraction, an additional judgment amount of not more than \$35 may be entered for the traffic violation. Specifies that this additional judgment amount for infraction judgments imposed in Marion County for traffic violations shall be transferred to a dedicated county fund. Provides that money in the dedicated county fund: (1) does not revert to the county or state general fund; and (2) may be used, after appropriation by the county fiscal body, only to pay compensation of commissioners and pay costs of the county's guardian ad litem program.

Effective: July 1, 2010; January 1, 2011.

Pryor, Porter, Richardson, Barnes

(SENATE SPONSORS — SCHNEIDER, TAYLOR, BREAUX)

January 7, 2010, read first time and referred to Committee on Judiciary.
January 12, 2010, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to House Rule 127.
January 21, 2010, amended, reported — Do Pass.
January 25, 2010, read second time, amended, ordered engrossed.
January 26, 2010, engrossed.
January 28, 2010, read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 1, 2010, read first time and referred to Committee on Appropriations.
February 18, 2010, amended, reported favorably — Do Pass.
February 23, 2010, read second time, amended, ordered engrossed.

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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED HOUSE BILL No. 1154

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 33-27-4-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Except as
3 provided in subsection (b), a person may not be certified under this
4 section if:
- 5 (1) the person:
 - 6 (A) has not served as a:
 - 7 (i) judge; or
 - 8 (ii) justice;
 - 9 (iii) magistrate; or
 - 10 (iv) commissioner appointed under IC 33-33-49 who has
 - 11 all the powers and duties prescribed for a magistrate; or
 - 12 (B) is still serving as a:
 - 13 (i) judge; or
 - 14 (ii) justice;
 - 15 (iii) magistrate; or
 - 16 (iv) commissioner appointed under IC 33-33-49 who has
 - 17 all the powers and duties prescribed for a magistrate;

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1 of a court of record in Indiana;

2 (2) the person is not available for the minimum period of

3 commitment for service as a senior judge specified by the

4 supreme court under IC 33-24-3-7; or

5 (3) the combination of:

6 (A) the compensation for senior judges set under

7 IC 33-23-3-5; and

8 (B) any retirement benefits that the person is receiving or is

9 entitled to receive;

10 exceeds the minimum compensation to which judges of the circuit

11 court are entitled under IC 33-38-5.

12 (b) A person who elects to forgo retirement benefits during the

13 period of commitment as a senior judge may be certified as a senior

14 judge under section 2 of this chapter upon verification by the judicial

15 nominating commission of the availability to the person of the election.

16 SECTION 2. IC 33-33-49-15 IS AMENDED TO READ AS

17 FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 15. (a) The

18 executive committee, with the approval of two-thirds (2/3) of the

19 judges, shall determine the number of hearing judges, commissioners,

20 referees, bail commissioners, court reporters, probation officers, and

21 other personnel required to efficiently serve the court. The salaries of

22 the personnel shall be fixed and paid as provided by law.

23 (b) The administrative officers shall perform the duties prescribed

24 by the executive committee and shall operate under the jurisdiction of

25 the executive committee and serve at the pleasure of the executive

26 committee.

27 (c) The executive committee shall see that the court at all times is

28 amply provided with supplies and sufficient clerical and other help,

29 including extra reporters or bailiffs, when needed. Each judge shall

30 appoint the judge's court reporters, bailiffs, secretary, commissioners,

31 and clerks. In addition to the specified duties of this subsection, the

32 executive committee shall exercise any other powers and duties that

33 may be assigned to the executive committee by an order book entry

34 signed by a two-thirds (2/3) majority of the judges. At least once each

35 month, a general term conference of all superior division judges must

36 be held, at which the presiding judge shall preside. A special order

37 book must be kept for the court in which shall be entered all special

38 rules, proceedings, and similar matters. During an absence or a

39 vacation of a judge who is a member of the executive committee, the

40 senior superior court judge shall act for the absent member, if

41 necessary.

42 (d) **Notwithstanding any other law, a commissioner appointed**

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1 under this chapter has all of the powers and duties prescribed for
2 a magistrate under IC 33-23-5. However, the provisions of
3 IC 33-23-5-11 requiring the state to pay the salary of a magistrate
4 do not require the state to pay the salary of a commissioner
5 appointed under this chapter.

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

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

17 (g) The:
18 (1) judge of the circuit court has exclusive authority to
19 appoint commissioners allocated to the circuit court; and
20 (2) judges of the superior court have exclusive authority to
21 appoint commissioners allocated to the superior court by a
22 vote of the majority of the judges of the superior court.

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

25 (i) Commissioners appointed by the:
26 (1) judge of the circuit court serve at the pleasure of the judge
27 of the circuit court; and
28 (2) judges of the superior court continue in office until
29 removed by the vote of a majority of the judges of the
30 superior court.

31 SECTION 3. IC 34-28-5-4, AS AMENDED BY P.L.101-2009,
32 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JANUARY 1, 2011]: Sec. 4. (a) A judgment of up to ten thousand
34 dollars (\$10,000) may be entered for a violation constituting a Class A
35 infraction.

36 (b) A judgment of up to one thousand dollars (\$1,000) may be
37 entered for a violation constituting a Class B infraction.

38 (c) A judgment of up to five hundred dollars (\$500) may be entered
39 for a violation constituting a Class C infraction.

40 (d) A judgment of up to twenty-five dollars (\$25) may be entered for
41 a violation constituting a Class D infraction.

42 (e) Subject to section 1(i) of this chapter, a judgment:

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- 1 (1) up to the amount requested in the complaint; and
- 2 (2) not exceeding any limitation under IC 36-1-3-8;
- 3 may be entered for an ordinance violation.

4 **(f) This subsection applies only to infraction judgments imposed**
 5 **in Marion County for traffic violations. In addition to any**
 6 **judgment otherwise entered under this section in Marion County**
 7 **for a traffic violation constituting an infraction, an additional**
 8 **judgment amount of not more than thirty-five dollars (\$35) may be**
 9 **entered for the traffic violation. A judgment amount imposed**
 10 **under this subsection shall not be included in applying the**
 11 **maximum judgment amount under subsections (a) through (d).**

12 SECTION 4. IC 34-28-5-5, AS AMENDED BY P.L.40-2007,
 13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JANUARY 1, 2011]: Sec. 5. (a) A defendant against whom a judgment
 15 is entered is liable for costs. Costs are part of the judgment and may not
 16 be suspended except under IC 9-30-3-12. Whenever a judgment is
 17 entered against a person for the commission of two (2) or more civil
 18 violations (infractions or ordinance violations), the court may waive the
 19 person's liability for costs for all but one (1) of the violations. This
 20 subsection does not apply to judgments entered for violations
 21 constituting:

- 22 (1) Class D infractions; or
- 23 (2) Class C infractions for unlawfully parking in a space reserved
- 24 for a person with a physical disability under IC 5-16-9-5 or
- 25 IC 5-16-9-8.
- 26 (b) If a judgment is entered:
- 27 (1) for a violation constituting:
- 28 (A) a Class D infraction; or
- 29 (B) a Class C infraction for unlawfully parking in a space
- 30 reserved for a person with a physical disability under
- 31 IC 5-16-9-5 or IC 5-16-9-8; or
- 32 (2) in favor of the defendant in any case;

33 the defendant is not liable for costs.

34 (c) Except for costs, and except as provided in **subsection (e) and**
 35 **IC 9-21-5-11(e)**, the funds collected as judgments for violations of
 36 statutes defining infractions shall be deposited in the state general fund.

37 (d) A judgment may be entered against a defendant under this
 38 section or section 4 of this chapter upon a finding by the court that the
 39 defendant:

- 40 (1) violated:
- 41 (A) a statute defining an infraction; or
- 42 (B) an ordinance; or

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1 (2) consents to entry of judgment for the plaintiff upon a pleading
2 of nolo contendere for a moving traffic violation.

3 (e) **The funds collected under section 4(f) of this chapter for**
4 **infraction judgments imposed in Marion County for traffic**
5 **violations shall be transferred to a dedicated county fund. The**
6 **money in the dedicated county fund does not revert to the county**
7 **general fund or state general fund and may be used, after**
8 **appropriation by the county fiscal body, only for the following**
9 **purposes:**

10 (1) **To pay compensation of commissioners appointed under**
11 **IC 33-33-49.**

12 (2) **To pay costs of the county's guardian ad litem program.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1154, 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 15, delete "July 1, 2010]" and insert "January 1, 2011]".

Page 3, line 2, after "each" insert "city".

Page 3, line 9, after "previous" insert "city".

Page 3, line 22, after "previous" insert "city".

and when so amended that said bill do pass.

(Reference is to HB 1154 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1154, 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 3, line 23, after "(h)" insert "**If the superior court is able to terminate a commissioner or any other person described in section 15(a) of this chapter who serves the court because of the appointment of a magistrate under this section, the fiscal body of Marion County shall do the following:**

- (1) Deposit the remainder of the terminated commissioner's or other person's salary that would have been paid to the commissioner or other person during the remainder of the city fiscal year into the Marion County guardian ad litem fund at the end of the city fiscal year.
- (2) Deposit an amount equal to the last year's salary of the terminated commissioner or other person into the Marion County guardian ad litem fund at the end of each city fiscal



**year that follows the city fiscal year described in subdivision (1).
(i)".**

and when so amended that said bill do pass.

(Reference is to HB 1154 as printed January 13, 2010.)

CRAWFORD, Chair

Committee Vote: yeas 22, nays 1.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1154 be amended to read as follows:

Page 3, delete lines 23 through 37, begin a new paragraph and insert:

"(h) The fiscal body of Marion County shall use revenues that would have otherwise been used to pay the salaries of commissioners or other persons described in section 15(a) of this chapter who serve the court that were replaced by magistrates appointed under this section for the following purposes:

- (1) To make the annual transfers required by subsection (g).**
- (2) To make the annual deposits into the guardian ad litem fund required by subsection (i).**

(i) At the end of each city fiscal year, the treasurer of Marion County shall deposit the amount determined in STEP TWO of the following formula into the Marion County guardian ad litem fund:

STEP ONE: Determine the total amount of salaries paid to commissioners and other persons described in section 15(a) of this chapter who serve the court that were replaced by magistrates appointed under this section in the last full city fiscal year in which the commissioner or other persons were employed by the county.

STEP TWO: Determine the difference between:

- (A) the amount determined under STEP ONE; minus**
- (B) the amount transferred for deposit in the state general fund under subsection (g) in that city fiscal year."**

Page 3, line 38, delete "(i)" and insert "(j)".

(Reference is to HB 1154 as printed January 22, 2010.)

PRYOR



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HOUSE MOTION

Mr. Speaker: I move that House Bill 1154 be amended to read as follows:

- Page 3, line 7, after "salaries" insert "**and benefits**".
- Page 3, line 13, after "salaries" insert "**and benefits**".
- Page 3, line 20, after "salaries" insert "**and benefits**".
- Page 3, line 29, after "salary" insert "**and benefits**".
- Page 3, line 33, after "salary" insert "**and benefits**".

(Reference is to HB 1154 as printed January 22, 2010.)

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 COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1154, 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 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 33-33-49-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners, and clerks. In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order

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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) Commissioners appointed by the:

- (1) judge of the circuit court serve at the pleasure of the judge of the circuit court; and**
- (2) judges of the superior court continue in office until removed by the vote of a majority of the judges of the superior court.**

SECTION 2. IC 34-28-5-4, AS AMENDED BY P.L.101-2009, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 4. (a) A judgment of up to ten thousand dollars (\$10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars (\$1,000) may be

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entered for a violation constituting a Class B infraction.

(c) A judgment of up to five hundred dollars (\$500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars (\$25) may be entered for a violation constituting a Class D infraction.

(e) Subject to section 1(i) of this chapter, a judgment:

(1) up to the amount requested in the complaint; and

(2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

(f) This subsection applies only to infraction judgments imposed in Marion County for traffic violations. In addition to any judgment otherwise entered under this section in Marion County for a traffic violation constituting an infraction, an additional judgment amount of not more than thirty-five dollars (\$35) may be entered for the traffic violation. A judgment amount imposed under this subsection shall not be included in applying the maximum judgment amount under subsections (a) through (d).

SECTION 3. IC 34-28-5-5, AS AMENDED BY P.L.40-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 5. (a) A defendant against whom a judgment is entered is liable for costs. Costs are part of the judgment and may not be suspended except under IC 9-30-3-12. Whenever a judgment is entered against a person for the commission of two (2) or more civil violations (infractions or ordinance violations), the court may waive the person's liability for costs for all but one (1) of the violations. This subsection does not apply to judgments entered for violations constituting:

(1) Class D infractions; or

(2) Class C infractions for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8.

(b) If a judgment is entered:

(1) for a violation constituting:

(A) a Class D infraction; or

(B) a Class C infraction for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8; or

(2) in favor of the defendant in any case;

the defendant is not liable for costs.

(c) Except for costs, and except as provided in **subsection (e) and IC 9-21-5-11(e)**, the funds collected as judgments for violations of statutes defining infractions shall be deposited in the state general fund.

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(d) A judgment may be entered against a defendant under this section or section 4 of this chapter upon a finding by the court that the defendant:

- (1) violated:
 - (A) a statute defining an infraction; or
 - (B) an ordinance; or
- (2) consents to entry of judgment for the plaintiff upon a pleading of nolo contendere for a moving traffic violation.

(e) The funds collected under section 4(f) of this chapter for infraction judgments imposed in Marion County for traffic violations shall be transferred to a dedicated county fund. The money in the dedicated county fund may be used, after appropriation by the county fiscal body, only for the following purposes:

- (1) To pay compensation of commissioners appointed under IC 33-33-49.**
- (2) To pay costs of the county's guardian ad litem program.**
- (3) To pay costs of operating courts."**

Delete pages 2 through 4.
Renummer all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1154 as reprinted January 26, 2010.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1154 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-27-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Except as provided in subsection (b), a person may not be certified under this section if:

- (1) the person:
 - (A) has not served as a:
 - (i) judge; or**
 - (ii) justice;**

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- (iii) magistrate; or
 - (iv) commissioner appointed under IC 33-33-49 who has all the powers and duties prescribed for a magistrate; or
- (B) is still serving as a:
- (i) judge; or
 - (ii) justice;
 - (iii) magistrate; or
 - (iv) commissioner appointed under IC 33-33-49 who has all the powers and duties prescribed for a magistrate;

of a court of record in Indiana;

(2) the person is not available for the minimum period of commitment for service as a senior judge specified by the supreme court under IC 33-24-3-7; or

(3) the combination of:

(A) the compensation for senior judges set under IC 33-23-3-5; and

(B) any retirement benefits that the person is receiving or is entitled to receive;

exceeds the minimum compensation to which judges of the circuit court are entitled under IC 33-38-5.

(b) A person who elects to forgo retirement benefits during the period of commitment as a senior judge may be certified as a senior judge under section 2 of this chapter upon verification by the judicial nominating commission of the availability to the person of the election."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1154 as printed February 19, 2010.)

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1154 be amended to read as follows:

Page 4, line 16, after "fund" insert "**does not revert to the county general fund or state general fund and**".

Page 4, delete line 22.

(Reference is to EHB 1154 as printed February 19, 2010.)

SCHNEIDER

