

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.

HOUSE ENROLLED ACT No. 1154

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 33-27-4-3, AS AMENDED BY SEA 36-2010, SECTION 1, 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;

(ii) justice; or

(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;

(ii) justice; or

(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

C
O
P
Y

HEA 1154 — Concur+



(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.

SECTION 2. 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 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

C
o
p
y



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 3. 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 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

C
O
P
Y



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 4. 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.

(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

**C
O
P
Y**



violations shall be transferred to a dedicated county fund. The money in the dedicated county fund does not revert to the county general fund or state general fund and 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.**

**C
o
p
y**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

C
O
P
Y

HEA 1154 — Concur+

