

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE ENROLLED ACT No. 523

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 33-34-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a) This subsection applies before July 1, 2018.** The small claims court is not a court of record. A person who wishes to appeal the judgment of a small claims court entered before July 1, 2018, shall appeal the case to the circuit or superior court under IC 33-34-3-15.

(b) This subsection applies after June 30, 2018. The small claims court is a court of record. A person who wishes to appeal the judgment of a small claims court entered after June 30, 2018, shall appeal the case to the court of appeals in accordance with IC 33-34-3-15.1.

(c) This subsection applies after June 30, 2018. Notwithstanding any other law, the elected constable shall continue to serve the court's personal service of process even after the court becomes a court of record.

SECTION 2. IC 33-34-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. ~~A division of the small claims court must be a full-time division or a part-time division as determined by the individual township boards following a hearing conducted under section 7 of this chapter.~~



(a) This subsection applies before January 1, 2017. A part-time court may become a full-time court by submitting a notice of intent to become a full-time court to the township board before August 1, 2015. The notice of intent must be signed by the township trustee and the judge of the court. A part-time court may not become a full-time court under this subsection without the approval of the township trustee. A part-time court that complies with this subsection becomes a full-time court on January 1, 2016. This subsection expires January 1, 2017.

(b) A small claims court that was a full-time small claims court on January 1, 2015, remains a full-time court.

(c) This subsection applies after December 31, 2016. Every small claims court must be a full-time court.

SECTION 3. IC 33-34-1-7, AS AMENDED BY P.L.174-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. A hearing must be conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public concerning:

- (1) whether a small claims court should be established or abolished in the township, if the township has a population of less than fifteen thousand (15,000) persons;
- ~~(2) whether the small claims court should be full time or part time;~~
- ~~(3) (2)~~ the location of the small claims court courtroom and offices; and
- ~~(4) (3)~~ other relevant matters.

SECTION 4. IC 33-34-1-9, AS AMENDED BY P.L.174-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. Not more than two (2) weeks after a hearing is conducted under section 7 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order concerning:

- (1) whether a small claims court shall be established or abolished in the township if the township has a population of less than fifteen thousand (15,000) persons;
- ~~(2) whether the small claims court if any, shall function full time or part time;~~
- ~~(3) (2)~~ the location of the small claims court courtroom and offices under IC 33-34-6-1; and
- ~~(4) (3)~~ other relevant matters.

SECTION 5. IC 33-34-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The **annual**



salary of a judge who ~~serves is the judge of a full-time court must be in an amount determined by the township board of the township in which the small claims court is located:~~ **is equal to seventy-five percent (75%) of the minimum salary paid by the state to the Marion County circuit court judge.**

(b) The salary of each judge who serves part time must be in an amount determined by the township board and approved by the city-county council. **This subsection expires January 1, 2017.**

(c) The salary of a judge may not be reduced during the judge's term of office.

(d) At any other time, salaries of any ~~full-time or~~ part-time judge may be increased or decreased by the township board of the township in which the small claims court is located. **This subsection expires January 1, 2017.**

SECTION 6. IC 33-34-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A judge serving part-time may participate in other gainful employment if the employment does not:

- (1) interfere with the exercise of the judge's judicial office; or
- (2) involve any conflict of interest in the performance of the judge's judicial duties.

This subsection expires January 1, 2017.

(b) A judge serving full time: ~~may practice law if the practice does not conflict in any way with the judge's official duties and does not:~~

- (1) ~~cause the judge to be unduly absent from the court; or shall devote full time to judicial duties; and~~
- (2) ~~interfere with the ready and prompt disposal of the judge's judicial duties; may not engage in the practice of law.~~

SECTION 7. IC 33-34-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. The court has original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed ~~six thousand dollars (\$6,000);~~ **eight thousand dollars (\$8,000)**, not including interest or attorney's fees.

SECTION 8. IC 33-34-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. The court has original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed ~~six thousand dollars (\$6,000);~~ **eight thousand dollars (\$8,000)**. The court also has original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property



sought to be recovered does not exceed ~~six thousand dollars (\$6,000)~~: **eight thousand dollars (\$8,000)**. These jurisdictional limitations are not affected by interest and attorney's fees.

SECTION 9. IC 33-34-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a)** The judge of the circuit court, assisted by the 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.

(b) The judge of the circuit court, assisted by the judges of the small claims court, shall make and adopt uniform rules for practice and procedure in the small claims courts.

SECTION 10. IC 33-34-3-15, AS AMENDED BY P.L.201-2011, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. **(a) This section applies only to a judgment of the small claims court entered before July 1, 2018.**

(b) All appeals from judgments of the small claims court shall be taken to the circuit court or superior court of the county and tried de novo.

~~(b)~~ **(c)** The rules of procedure for appeals must be in accordance with the rules established by the circuit court and superior court.

~~(c)~~ **(d)** The appellant shall pay all costs necessary for the filing of the case in the circuit court or superior court, as if the appeal were a case that had been filed initially in that court.

SECTION 11. IC 33-34-3-15.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.1. (a) This section applies only to a judgment of the small claims court entered after June 30, 2018.**

(b) All appeals from judgments of the small claims court shall be taken to the court of appeals in the same manner as a judgment from a circuit or superior court.

SECTION 12. IC 33-34-5-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) Before the first day of each month, the judge of a low caseload court (as defined in IC 33-34-8-5 and IC 33-34-8-5.1) shall identify to the presiding judge of the small claims courts five (5) days during the month in which the judge of the low caseload court will be available to assist the judges of the other small claims courts with their judicial duties.**

(b) Upon request of the judge of a court that is not a low



caseload court, the presiding judge may assign the judge of a low caseload court to assist the judge of the other court with the judge's judicial duties during one (1) or more of the five (5) days that the judge of the low caseload court has indicated that he or she will be available.

(c) The judge of a low caseload court shall comply with an assignment made by the presiding judge under this section.

(d) At the time the presiding judge makes an assignment under this section, the presiding judge shall inform the circuit court judge in writing of the assignment. The circuit court judge has the authority to enforce the presiding judge's assignment under this section.

SECTION 13. IC 33-34-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Each township shall provide an appropriate and competitive salary of at least five thousand six hundred dollars (\$5,600) for the number of clerks for the small claims court sufficient to:

- (1) operate efficiently; and
- (2) adequately serve the citizens doing business with the court.

(b) The clerks of a small claims court:

- (1) shall be appointed by the judge; and**
- (2) serve at the pleasure of the judge.**

SECTION 14. IC 33-34-7-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The small claims courts shall use a centralized case management system approved by the division of state court administration.

(b) The judge of a small claims court is responsible for:

- (1) preparing and submitting the court's budget to the township advisory board; and**
- (2) after the budget has been approved by the township advisory board, managing the budget of the small claims court.**

SECTION 15. IC 33-34-8-3, AS AMENDED BY P.L.136-2012, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ Township of Marion County Small Claims Court (with the name of the township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate.

(b) This subsection applies only to a low caseload court (as defined in sections 5 and 5.1 of this chapter). All township docket



fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(c) This subsection does not apply to a low caseload court. This subsection applies to all other township small claims courts in Marion County. One dollar and fifty cents (\$1.50) of the township docket fee shall be paid to the township trustee of each low caseload court at the end of each month. The remaining township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

~~(b)~~ **(d)** The court shall:

(1) semiannually distribute to the auditor of state:

(A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in the homeowner protection unit account established by IC 4-6-12-9 and the state user fee fund established under IC 33-37-9;

(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

(C) sixty percent (60%) of all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2;

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(F) one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, by the court under IC 33-37-5-31; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited monthly in the township general fund of the township in which the court is located. The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

~~(e)~~ **(e)** The court semiannually shall pay to the township trustee of the township in which the court is located the remaining forty percent (40%) of the court administration fees described under subsection ~~(b)(1)(C)~~ **(d)(1)(C)** to fund the operations of the small claims court in the trustee's township.



SECTION 16. IC 33-34-8-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) This section applies after December 31, 2015.**

(b) As used in this section, "low caseload court" means, for a calendar year, a court that, in the preceding calendar year:

- (1) had less than four thousand (4,000) new filings; and**
- (2) was one (1) of the two (2) courts with the lowest number of new filings.**

(c) Before January 1 of each year, the circuit court judge shall determine whether a court is a low caseload court.

(d) If the circuit court judge determines that one (1) or more courts is a low caseload court, the circuit court judge shall certify these courts as low caseload courts and notify the clerk of each township small claims court. Not more than two (2) courts may be certified as low caseload courts.

SECTION 17. IC 33-34-8-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.1. (a) This section applies before January 1, 2016.**

(b) As used in this section, "low caseload court" means, before January 1, 2016, the two (2) courts that, after December 31, 2014, and before May 1, 2015, had the lowest number of new filings.

(c) Before July 1, 2015, the circuit court judge shall determine, for the period beginning after December 31, 2014, and before May 1, 2015, which two (2) courts are low caseload courts.

(d) After the circuit court judge determines which two (2) courts are low caseload courts, the circuit court judge shall certify these courts as low caseload courts and notify the clerk of each township small claims court. Not more than two (2) courts may be low caseload courts.

(e) This section expires January 1, 2016.

SECTION 18. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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