



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1036 be amended to read as follows:

- 1 Page 1, line 4, delete "JUDICIAL SELECTION" and insert
- 2 **"SUPERIOR COURT"**.
- 3 Page 1, delete line 5.
- 4 Page 1, delete lines 9 through 13.
- 5 Page 1, line 14, delete "5." and insert **"2."**.
- 6 Page 1, delete lines 15 through 16.
- 7 Page 1, line 17, delete "7." and insert **"3."**.
- 8 Page 2, line 8, delete "8." and insert **"4."**.
- 9 Page 2, line 10, delete "9." and insert **"5."**.
- 10 Page 3, line 26, delete "Elected Committee Member" and insert
- 11 **"Judicial"**.
- 12 Page 3, line 27, delete "Committee" and insert **"Judicial election"**.
- 13 Page 4, line 6, delete "Committee" and insert **"Judicial election"**.
- 14 Page 4, line 41, delete "Committee" and insert **"Judicial election"**.
- 15 Page 6, line 12, delete "Committee" and insert **"Judicial election"**.
- 16 Page 6, delete lines 41 through 42.
- 17 Delete pages 7 through 13.
- 18 Page 14, delete lines 1 through 41.
- 19 Page 16, delete lines 13 through 42, begin a new paragraph and
- 20 insert:
- 21 "SECTION 4. IC 33-33-49-6, AS AMENDED BY P.L.80-2006,
- 22 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 UPON PASSAGE]: Sec. 6. (a) There is established a superior court in
- 24 Marion County. The court consists of
- 25 ~~(1) thirty-five (35) judges beginning January 1, 2007, and ending~~
- 26 ~~December 31, 2008; and~~
- 27 ~~(2) thirty-six (36) judges. beginning January 1, 2009.~~

(b) To be qualified to serve as a judge of the court, a **person candidate for election as a judge** must, ~~be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 the~~ **candidate's candidacy document (as defined in IC 3-5-7-6(b))** is filed, satisfy the following:

(1) **The candidate must be** a resident of Marion County. ~~and~~ **However, the candidate is not required to be a resident of the judicial election district from which the candidate is seeking election.**

(2) **The candidate must be** an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) During the term of office, a judge of the court must remain a resident of Marion County.

SECTION 5. IC 33-33-49-13, AS AMENDED BY P.L.164-2006, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) **Except for the transitional periods described in section 13.2 of this chapter,** each judge of the court shall be elected for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A candidate for judge shall run ~~at large for the office of judge of the court and not as a candidate for judge of a particular room or division of the court.~~ **judicial election district established under IC 3-3.5-3. A candidate's candidacy document (as defined in IC 3-5-7-6(b)) must designate the judicial election district from which the candidate is seeking election.**

(b) ~~At the primary election held in 2008 and every six (6) years thereafter, a general election year,~~ a political party may nominate not more than ~~eight (8)~~ **three (3)** candidates for judge of the court **in each judicial election district.** ~~At the primary election held in 2006 and every six (6) years thereafter, a political party may nominate not more than ten (10) candidates for judge of the court.~~ The candidates shall be voted on at the general election. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(c) The names of the party candidates nominated and properly certified to the Marion County election board, along with the names of other candidates who have qualified, shall be placed on the ballot at the general election in the form prescribed by IC 3-11. ~~At the 2008 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for sixteen (16) candidates for judge of the court. Beginning with the 2006 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for twenty (20) candidates for judge of the court. At each general election, each voter in each judicial election district may vote for not more than three (3) candidates for judge of the court.~~

(d) The **three (3)** candidates for judge of the court receiving the highest number of votes **in each judicial election district** shall be elected to the vacancies. The names of the candidates elected as judges of the court shall be certified to the county election board as provided by law.

(e) A judge is elected as a judge of the court and not as the judge of a particular room or division of the court."

Delete pages 17 through 24.

Page 25, delete lines 1 through 24, begin a new paragraph and insert:

"SECTION 8. IC 33-33-49-13.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.1. (a) As used in this chapter:**

(1) "close relative" has the meaning set forth in IC 33-23-11-2; and

(2) "committee" refers to the Marion County judicial nominating committee established by subsection (b).

(b) The Marion County judicial nominating committee is established to nominate a candidate to fill a vacancy created when a judge of the Marion County superior court:

(1) dies, resigns, or is removed from office; or

(2) is for any reason ineligible to continue or incapable of continuing in office until the end of the judge's term in office.

(c) The committee consists of the following nine (9) members:

(1) Four (4) members who reside in Marion County, appointed as follows:

(A) One (1) member appointed by the speaker of the house of representatives.

(B) One (1) member appointed by the minority leader of the house of representatives.

(C) One (1) member appointed by the president pro tempore of the senate.

(D) One (1) member appointed by the minority leader of the senate.

A person appointed under this subdivision may not be an attorney or a member of the general assembly.

(2) An attorney who resides in Marion County and practices primarily in the area of criminal law, appointed by the president of the Indianapolis Bar Association.

(3) An attorney who resides in Marion County and practices primarily in the area of criminal law, appointed by the president of the Marion County Bar Association.

(4) An attorney who resides in Marion County, appointed by the president of the Indiana Trial Lawyers Association.

(5) An attorney who resides in Marion County, appointed by

1 the president of the Defense Trial Counsel of Indiana.

2 (6) The chief justice of Indiana or a designee of the chief
3 justice who is a justice of the Indiana supreme court. The
4 chief justice or chief justice's designee serves as the
5 chairperson of the committee ex officio.

6 (d) If a member of the committee is employed by a law firm, no
7 other person employed by the same law firm may be appointed to
8 the committee.

9 (e) A member of the committee may not be:

10 (1) a current or former judge of the Marion superior or
11 circuit court;

12 (2) a current or former judicial officer appointed by the
13 Marion superior or circuit court;

14 (3) a current or former employee of the Marion superior or
15 circuit court; or

16 (4) a close relative of anyone described in subdivision (1), (2),
17 or (3).

18 This subsection does not apply to a member appointed under
19 subsection (c)(6).

20 (f) All attorney members of the committee must be active and in
21 good standing with the Indiana supreme court.

22 (g) This subsection does not apply to the member described in
23 subsection (c)(6). Each member of the committee serves a four (4)
24 year term, beginning on July 1, 2017, and ending on June 30, 2021.
25 A member of the committee may be reappointed for one (1) or
26 more additional four (4) year terms. If a member is appointed to
27 fill a vacancy, the member serves during the unexpired term of the
28 member's predecessor and may be reappointed for one (1) or more
29 additional four (4) year terms.

30 (h) If a vacancy exists on the committee, the appointing
31 authority who appointed the former member whose position has
32 become vacant shall appoint an individual to fill the vacancy.

33 (i) A member of the committee described in subsection (c)(6)
34 ceases to be a member of the committee at the time the person no
35 longer holds the office that entitles the person to be a member of
36 the committee.

37 (j) A member of the committee described in subsection (c)(1)
38 through (c)(5) who no longer resides in Marion County is
39 considered to have resigned from the committee. A member of the
40 committee who no longer resides in Marion County shall notify the
41 chairperson in writing of the member's change in residence.

42 (k) A quorum consists of six (6) members of the committee.

43 (l) The affirmative votes of six (6) members of the committee are
44 required for the committee to take official action with respect to
45 any candidate for judicial office.

46 (m) The committee shall nominate judicial candidates to fill a
47 vacancy in the court in accordance with section 13.4 of this

chapter.

(n) The committee meets upon the call of the chairperson.

(o) The committee shall meet in the Indiana statehouse, or in any other appropriate location in Marion County, as determined by the chairperson.

(p) Except as otherwise provided in subsection (q) or otherwise provided in this chapter, the committee may adopt its own policies and operating procedures. The policies and procedures must comply with IC 5-14-1.5 (the open door law) and this chapter, and must include procedures by which eligible candidates for a vacancy on the court may submit their names to the committee. The policies and procedures are public records, and the meetings of the committee at which the policies and procedures are considered for initial adoption or amendment must be publicly announced and open to the public.

(q) Notwithstanding IC 5-14-1.5-2, the committee is a public agency for purposes of IC 5-14-1.5. The committee may meet in executive session under IC 5-14-1.5-6.1 for the consideration of a candidate if:

(1) notice of the executive session is given in the manner prescribed by IC 5-14-1.5-5; and

(2) all interviews of candidates are conducted at meetings open to the public.

(r) Notwithstanding IC 5-14-3-4, all public records (as defined in IC 5-14-3-2) of the committee are subject to IC 5-14-3-3, including records described in IC 5-14-3-4(b)(12). However, the following records are excepted from public inspection and copying at the discretion of the committee:

(1) Personnel files of committee employees and members and files of applicants for employment with the committee to the extent permitted under IC 5-14-3-4(b)(8).

(2) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1, unless the records are prepared for use in the consideration of a candidate.

(3) Investigatory records prepared for the committee until:

(A) the records are considered in connection with the consideration of a candidate;

(B) the records are publicly discussed by the committee in connection with the consideration of a candidate;

(C) a candidate elects to have the records released by the committee; or

(D) the committee elects to release the records that the committee considers appropriate in response to publicly disseminated statements relating to the activities or actions of the committee;

whichever occurs first.

(4) Applications of candidates who are not among the applicants eligible for further consideration following action by the committee.

(5) The work product of an attorney (as defined in IC 5-14-3-2) representing the committee.

(s) When an event described by subsection (r)(3) occurs, the investigatory record becomes available for public inspection and copying under IC 5-14-3-3.

(t) A former member of the committee may not be nominated as a judge of the court if the person has served as a member of the committee within the previous five (5) years.

SECTION 9. IC 33-33-49-13.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.2. (a) The following definitions apply throughout this section:

(1) "First major political party" means the major political party whose candidate for secretary of state received the most votes in Marion County during the 2014 general election.

(2) "Major political party" has the meaning set forth in IC 3-5-2-30(2) with respect to Marion County.

(3) "Second major political party" means the major political party whose candidate for secretary of state did not receive the most votes in Marion County during the 2014 general election.

(b) The thirty-six (36) judges of the court shall be divided into three (3) election classes. Each election class consists of twelve (12) judges.

(c) Election class A consists of:

(1) six (6) of the twenty (20) judges:

(A) whose terms expire on December 31, 2018 (not including the transitional period described in subsection (h));

(B) who were elected as a member of the first major political party during the general election; and

(C) who have the most seniority as a judge among the judges described in clauses (A) through (B).

If two (2) or more judges have equal seniority such that the assignment of only six (6) first major political party judges to election class A cannot be made, those judges having the lowest bar number (not including the county identifier) have the highest seniority; and

(2) six (6) of the twenty (20) judges:

(A) whose terms expire on December 31, 2018 (not including the transitional period described in subsection (h));

(B) who were elected as a member of the second major political party during the general election; and

- 1 (C) who have the most seniority as a judge among the
 2 judges described in clauses (A) through (B).
 3 If two (2) or more judges have equal seniority such that the
 4 assignment of only six (6) second major political party judges
 5 to election class A cannot be made, those judges having the
 6 lowest bar number (not including the county identifier) have
 7 the highest seniority.
- 8 (d) Election class B consists of:
 9 (1) two (2) of the sixteen (16) judges:
 10 (A) whose terms expire on December 31, 2020 (not
 11 including the transitional period described in subsection
 12 (h));
 13 (B) who were elected as a member of the first major
 14 political party during the general election; and
 15 (C) who have the most seniority as a judge among the
 16 judges described in clauses (A) through (B);
 17 (2) two (2) of the sixteen (16) judges:
 18 (A) whose terms expire on December 31, 2020 (not
 19 including the transitional period described in subsection
 20 (h));
 21 (B) who were elected as a member of the second major
 22 political party during the general election; and
 23 (C) who have the most seniority as a judge among the
 24 judges described in clauses (A) through (B); and
 25 (3) the eight (8) judges not assigned to election class A whose
 26 terms would have expired on December 31, 2018 (not
 27 including the transitional period described in subsection (h)).
 28 If two (2) or more judges described in subdivision (1) have equal
 29 seniority such that the assignment of only two (2) judges to election
 30 class B cannot be made, those judges having the lowest bar number
 31 (not including the county identifier) have the highest seniority. If
 32 two (2) or more judges described in subdivision (2) have equal
 33 seniority such that the assignment of only two (2) judges to election
 34 class B cannot be made, those judges having the lowest bar number
 35 (not including the county identifier) have the highest seniority.
- 36 (e) Election class C consists of the twelve (12) judges:
 37 (1) whose terms would have otherwise expired on December
 38 31, 2020 (not including the transitional period described in
 39 subsection (h)); and
 40 (2) who are not assigned to election class B.
- 41 (f) The term of a judge assigned to:
 42 (1) retention class A begins January 1, 2019, and every six (6)
 43 years thereafter, and continues through December 31, 2025,
 44 and every six (6) years thereafter;
 45 (2) retention class B begins January 1, 2021, and every six (6)
 46 years thereafter, and continues through December 31, 2027,

and every six (6) years thereafter; and

(3) retention class C begins January 1, 2023, and every six (6) years thereafter, and continues through December 31, 2029, and every six (6) years thereafter.

(g) A judge's election class shall be determined as of May 1, 2017. A new judge is assigned the election class of the judge's predecessor.

(h) Notwithstanding any other law, the term of a judge described in:

(1) subsection (d)(3) expires December 31, 2020; and

(2) subsection (e) expires December 31, 2022.

This subsection expires on January 1, 2023.

SECTION 10. IC 33-33-49-13.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.4. (a) When the committee learns that a vacancy exists or will exist on the court because a judge of the court:

(1) dies, resigns, or is removed from office; or

(2) is for any reason ineligible to continue or incapable of continuing in office until the end of the judge's term in office; the committee shall nominate three (3) candidates to the governor to fill the vacancy in accordance with this section.

(b) In making a nomination under this section, the committee shall consider the following factors with respect to a candidate:

(1) Law school record, including any academic honors and achievements.

(2) Contribution to scholarly journals and publications, legislative drafting, and legal briefs.

(3) Activities in public service, including:

(A) writings and speeches concerning public or civic affairs that are on public record, including but not limited to campaign speeches or writing, letters to newspapers, and testimony before public agencies;

(B) efforts and achievements in improving the administration of justice; and

(C) other conduct relating to the individual's profession.

(4) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(5) Probable judicial temperament.

(6) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate, patience, decisiveness, and dedication.

(7) Membership on boards of directors, financial interest, and any other consideration that might create conflict of interest with a judicial office.

(8) Any other pertinent information that the committee feels

1 is important in selecting the best qualified individuals for
2 judicial office.

3 (c) As soon as practicable after the committee learns of a
4 vacancy, the committee shall publicly announce that it is accepting
5 applications from persons wishing to fill the vacancy. The
6 committee shall determine the form and content of the application,
7 establish a timetable for nominations, and schedule one (1) or more
8 hearings to interview qualified applicants and select nominees to
9 fill the vacancy. To the extent practicable, the committee shall
10 endeavor to interview as many qualified applicants as possible.
11 However, if a large number of applicants have applied to fill a
12 vacancy, the committee may limit itself to interviewing only the
13 most qualified applicants. The committee may conduct multiple
14 interviews. At the conclusion of the interview process, the
15 committee shall nominate the three (3) most qualified candidates
16 and forward their names to the governor, who shall appoint one (1)
17 of the nominees as judge within sixty (60) days.

18 (d) The judge appointed by the governor under this section
19 serves only until the term of the judge's predecessor in office
20 expires."

21 Renumber all SECTIONS consecutively.

 (Reference is to EHB 1036 as printed March 31, 2017.)

Senator GLICK