



PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

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

- 1 Page 3, line 7, delete "of the" and insert "**of a**".
- 2 Page 3, line 8, delete "Marion".
- 3 Page 3, line 8, delete "IC 33-33-49." and insert "**IC 33-29-7.**".
- 4 Page 4, line 13, delete "IC 33-33-49-13.4." and insert "**IC**
- 5 **33-29-7-5.**".
- 6 Page 4, between lines 17 and 18, begin a new paragraph and insert:
- 7 "SECTION 5. IC 3-14-1-10.5 IS REPEALED [EFFECTIVE UPON
- 8 PASSAGE]. Sec. ~~10.5~~: (a) A person who recklessly violates
- 9 ~~IC 33-33-2-11~~ by accepting contributions that exceed the amount
- 10 permitted under that section commits a Class B misdemeanor.
- 11 (b) A person described by subsection (a) is also subject to a civil
- 12 penalty under IC 3-9-4-17. The county election board may assess a
- 13 penalty of not more than three (3) times the amount of the contribution
- 14 that exceeds the limit prescribed by ~~IC 33-33-2-11~~, plus any
- 15 investigative costs incurred and documented by the board.
- 16 SECTION 6. IC 5-8-1-19, AS AMENDED BY P.L.201-2011,
- 17 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 UPON PASSAGE]: Sec. 19. (a) Under Article 7, Section 13 of the
- 19 Constitution of the State of Indiana, whenever a circuit, superior, or
- 20 probate court judge or prosecuting attorney has been convicted of
- 21 corruption or any other high crime, the attorney general shall bring

proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall ~~subject to:~~

(1) ~~IC 33-33-2-39;~~

(2) ~~IC 33-33-2-43;~~

(3) ~~IC 33-33-45-38; and~~

(4) ~~IC 33-33-71-40;~~

appoint or select a successor to fill the vacancy in office."

Page 4, between lines 29 and 30, begin a new paragraph and insert:
 "SECTION 8. IC 33-29-1-3, AS AMENDED BY P.L.201-2011, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A standard superior court judge is ~~elected at the general election every six (6) years in the county in which the court is located. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.~~ **selected in the manner described in IC 33-29-7.**

(b) To be eligible to hold office as a judge of a standard superior court, a person must be:

(1) a resident of the county in which the court is located; and

(2) admitted to practice law in Indiana.

SECTION 9. IC 33-29-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. County Superior Court Judicial Selection

Sec. 1. (a) This chapter applies to the selection of a superior court judge in every county having a superior court.

(b) A person serving as judge of the superior court on July 1, 2017, shall continue to serve as judge of the superior court for the remainder of the person's term in effect on July 1, 2017, before the person is subject to a retention election as provided in this chapter.

Sec. 2. (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 county judicial selection committee established by subsection (b).

(b) A county judicial selection committee is established in each county to which this chapter applies to:

(1) select nominees for the superior court in the county; and

(2) make recommendations to the voters concerning the retention of a judge on the court.

(c) The committee consists of the following fourteen (14) members:

(1) Four (4) members who reside in the county, appointed as follows:

- 1 (A) One (1) member appointed by the speaker of the house
2 of representatives.
- 3 (B) One (1) member appointed by the minority leader of
4 the house of representatives.
- 5 (C) One (1) member appointed by the president pro
6 tempore of the senate.
- 7 (D) One (1) member appointed by the minority leader of
8 the senate.
- 9 A person appointed under this subdivision may not be a
10 member of the general assembly.
- 11 (2) An attorney who resides in the county and practices
12 primarily in the area of criminal law, appointed by the
13 president of the bar association in the county having the
14 largest membership, not including a statewide, national, or
15 regional bar association.
- 16 (3) An attorney who resides in the county and practices
17 primarily in the area of criminal law, appointed by the
18 president of the bar association in the county having the
19 second largest membership, not including a statewide,
20 national, or regional bar association, if the bar association has
21 at least five hundred (500) members. However, if there is no
22 bar association in the county that meets the requirements of
23 this subdivision, the appointment shall be made by the bar
24 association described in subdivision (2).
- 25 (4) An attorney who resides in the county, appointed by the
26 president of the Indiana Trial Lawyers Association.
- 27 (5) An attorney who resides in the county, appointed by the
28 president of the Defense Trial Counsel of Indiana.
- 29 (6) Two (2) members appointed by the chairperson of each
30 major political party (as defined by IC 3-5-2-30(2)) in the
31 county. Each of the four (4) members appointed under this
32 subdivision must reside in the county, and at least one (1)
33 member appointed by each major political party must be a
34 woman or a minority (as defined in IC 16-46-6-2), or both.
- 35 (7) The chief judge of the Indiana court of appeals or a
36 designee of the chief judge who is a judge of the Indiana court
37 of appeals. The chief judge or chief judge's designee serves as
38 the vice chairperson of the committee ex officio.
- 39 (8) The chief justice of Indiana or a designee of the chief
40 justice who is a justice of the Indiana supreme court. The
41 chief justice or chief justice's designee serves as the
42 chairperson of the committee ex officio.
- 43 (d) If a member of the committee is employed by a law firm, no
44 other person employed by the same law firm may be appointed to
45 the committee.
- 46 (e) A member of the committee may not be:
47 (1) a current or former judge of the county superior or circuit

1 court;

2 (2) a current or former judicial officer appointed by the
3 county superior or circuit court;

4 (3) a current or former employee of the county superior or
5 circuit court; or

6 (4) a close relative of any person described in subdivision (1),
7 (2), or (3).

8 This subsection does not apply to a member appointed under
9 subsection (c)(7) or (c)(8).

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

12 (g) Each member of the committee who is not an ex officio
13 member serves a four (4) year term, beginning on July 1, 2017, and
14 ending on June 30, 2021. A member of the committee may be
15 reappointed for one (1) or more additional four (4) year terms. If
16 a member is appointed to fill a vacancy, the member serves during
17 the unexpired term of the member's predecessor and may be
18 reappointed for one (1) or more additional four (4) year terms.

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

22 (i) An ex officio member of the committee ceases to be a member
23 of the committee at the time the person no longer holds the office
24 that entitles the person to be a member of the committee.

25 (j) A member of the committee described in subsection (c)(1)
26 through (c)(6) who no longer resides in the county is considered to
27 have resigned from the committee. A member of the committee
28 who no longer resides in the county shall notify the chairperson in
29 writing of the member's change in residence.

30 (k) Each member of the committee is entitled to receive the
31 same per diem, mileage, and travel allowances paid to individuals
32 who serve as legislative members of interim study committees
33 established by the legislative council.

34 (l) A quorum consists of nine (9) members of the committee.

35 (m) The affirmative votes of nine (9) members of the committee
36 are required for the committee to take official action with respect
37 to any candidate for judicial office.

38 (n) The committee shall:

39 (1) nominate judicial candidates for the court in accordance
40 with section 5 of this chapter; and

41 (2) make recommendations concerning retention in
42 accordance with section 6 of this chapter.

43 (o) The committee meets upon the call of the chairperson.

44 (p) The committee shall meet in any appropriate location in the
45 county, as determined by the chairperson.

46 (q) Except as otherwise provided in subsection (r) or otherwise
47 provided in this chapter, the committee may adopt its own policies

1 and operating procedures. The policies and procedures must
 2 comply with IC 5-14-1.5 (the open door law) and this chapter, and
 3 must include procedures by which eligible candidates for a vacancy
 4 on the court may submit their names to the committee. The policies
 5 and procedures are public records, and the meetings of the
 6 committee at which the policies and procedures are considered for
 7 initial adoption or amendment must be publicly announced and
 8 open to the public.

9 (r) Notwithstanding IC 5-14-1.5-2, the committee is a public
 10 agency for the purposes of IC 5-14-1.5. The committee may meet
 11 in executive session under IC 5-14-1.5-6.1 for the consideration of
 12 a candidate for appointment to or retention on the court if:

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

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

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

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

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

30 (3) Investigatory records prepared for the committee until:

31 (A) the records are filed and considered in connection with
 32 the consideration of a candidate;

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

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

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

41 whichever occurs first.

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

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

47 (t) When an event described by subsection (s)(3) occurs, the

investigatory record becomes available for public inspection and copying under IC 5-14-3-3.

(u) 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.

Sec. 3. Each judge of the court shall serve a term of six (6) years, beginning on January 1 and ending on December 31. The judge shall hold office for the six (6) year term or until the judge's successor is appointed and qualified. A judge shall be appointed at large for the office of judge of the court and not as the judge of a particular room or division of the court.

Sec. 4. (a) The retention in office of a sitting judge of the court shall be approved or rejected by the electorate of the county in accordance with this section.

(b) A judge who wishes to be retained in office shall file a statement with the clerk during the period described in IC 3-8-2-4 during which a declaration of candidacy must be filed in the year in which the judge's term expires. The judge's statement must include the following information:

(1) A statement indicating that the judge wishes to have the question of the judge's retention placed on the ballot.

(2) A statement of the judge's name as:

(A) the judge wants the judge's name to appear on the ballot; and

(B) a candidate's name is permitted to appear on the ballot under IC 3-5-7.

(3) If the judge is affiliated with a political party, the name of that political party. The judge may indicate in the statement that the judge is not affiliated with a political party. For purposes of this subdivision, a judge's affiliation with a political party is determined as provided in IC 3-8-2-7(a)(4).

(4) A statement that the judge requests that the name on the judge's voter registration record be the same as the name the judge uses on the statement. If there is a difference between the name on the judge's statement and the name on the judge's voter registration record, the clerk shall change the name on the judge's voter registration record to be the same as the name on the judge's statement.

If a judge does not file a statement under this subsection, the clerk shall, not later than March 1, notify the county judicial selection committee in writing that the judge does not wish to continue in office after the end of the judge's term of office.

(c) The term of a judge:

(1) who does not file a statement under subsection (b); and

(2) whose term expires during the year in which the question of the retention of the judge would have been placed on the general election ballot;

1 expires December 31 of the year in which the question of the
2 judge's retention would have been placed on the ballot.

3 (d) If the question of a judge's retention is required to be on the
4 ballot at a general election, the question of approval or rejection of
5 the judge's retention shall be placed on the general election ballot
6 in the form prescribed by IC 3-11-2 and must state:

7 "Shall Judge (insert here the name of the judge as stated
8 under subsection (b)(2)) be retained in office?"

9 If a majority of the ballots cast by the electors voting on the
10 question is "Yes", the judge whose name appears on the question
11 shall be approved for a six (6) year term beginning January 1
12 following the general election as provided in section 3 of this
13 chapter. If a majority of the ballots cast by the electors voting on
14 the question is not "Yes", the following apply:

15 (1) Retention of the judge whose name appears on the
16 question is rejected.

17 (2) The office of the rejected judge becomes vacant on
18 January 1 following the rejection.

19 (3) The vacancy shall be filled in accordance with this chapter.

20 Sec. 5. (a) When the committee learns that a vacancy exists or
21 will exist on the court, the committee shall nominate three (3)
22 candidates to the governor to fill the vacancy in accordance with
23 this section.

24 (b) In making a nomination under this section or a
25 recommendation concerning retention under section 6 of this
26 chapter, the committee shall consider the following factors with
27 respect to a candidate:

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

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

32 (3) Activities in public service, including:

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

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

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

40 (4) Whether the candidate reflects the diversity and makeup
41 of the county.

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

45 (6) Probable judicial temperament.

46 (7) Personality traits, including the exercise of sound
47 judgment, ability to compromise and conciliate, patience,

1 decisiveness, and dedication.

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

5 (9) Any other pertinent information that the committee feels
6 is important in selecting the best qualified individuals for
7 judicial office.

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

23 (d) This subsection applies if the county has more than one (1)
24 superior court judge. If the number of superior court judges in the
25 county is even, no more than one-half (1/2) of the judges may be
26 members of the same political party. If the number of superior
27 court judges in the county is odd, the maximum number of judges
28 who may be members of the same political party is equal to
29 one-half (1/2) of the next highest even number.

30 Sec. 6. (a) This section applies to each sitting judge who will
31 stand for retention under section 4 of this chapter, including a
32 person who served as a judge of the county superior court on
33 December 31, 2017. However, an incumbent judge must appear
34 only one (1) time before the committee for purposes of this section.

35 (b) The following definitions apply throughout this section:

36 (1) "News media" includes:

37 (A) a newspaper of general circulation in the county;

38 (B) one (1) or more broadcasters serving the county;

39 (C) any person who uses a blog or similar Internet web site
40 to provide information or commentary concerning the
41 judiciary or political matters of interest to residents of the
42 county; and

43 (D) any other appropriate source of news or information
44 for county residents.

45 (2) "Voter outreach organization" includes any organization
46 that has the goal of informing voters in the county about
47 issues and candidates in upcoming elections.

(c) This subsection does not apply to an incumbent judge who has previously appeared before the committee for purposes of this section at least one (1) time. Before a judge may stand for retention under section 4 of this chapter, the judge must appear before the committee to permit the committee to issue a recommendation to the voters concerning the judge's qualifications and suitability to continue to hold judicial office.

(d) At the time a judge files a statement under section 4 of this chapter that the judge wishes to be retained in office, the judge shall:

(1) notify the committee that the judge wishes to be retained in office; and

(2) provide the committee with a written statement describing the judge's qualifications, with particular emphasis on the matters described in section 5(b) of this chapter.

(e) After receiving the materials described in subsection (d), the committee shall promptly schedule a hearing to consider the materials submitted by the judge and interview the judge. Each judge is entitled to a hearing before the committee. The hearings shall be held in executive session.

(f) A judge is presumed qualified. The affirmative votes of at least nine (9) committee members are required to find that a judge is not qualified.

(g) If the committee finds that a judge is not qualified, the committee shall do the following:

(1) Through the chairperson, place on the appropriate Internet web site of the Indiana supreme court the following statement: "After considering Judge (insert name here)'s qualifications and Judge (insert name here)'s performance in office, the (insert the name of the county here) County Judicial Selection Committee finds that Judge (insert name here) IS NOT qualified and SHOULD NOT BE retained in office."

(2) Issue the following statement to news media and voter outreach organizations: "After considering Judge (insert name here)'s qualifications and Judge (insert name here)'s performance in office, the (insert the name of the county here) County Judicial Selection Committee finds that Judge (insert name here) IS NOT qualified and SHOULD NOT BE retained in office."

(3) Take any other steps reasonably calculated to inform the general public in the county of the committee's determination.

(h) If the committee does not find that a judge is unqualified, the committee shall do the following:

(1) Through the chairperson, place on the appropriate Internet web site of the Indiana supreme court the following statement: "After considering Judge (insert name here)'s

1 qualifications and Judge (insert name here)'s performance in
 2 office, the (insert the name of the county here) County
 3 Judicial Selection Committee finds that Judge (insert name
 4 here) IS qualified and SHOULD BE retained in office."

5 (2) Issue the following statement to news media and voter
 6 outreach organizations: "After considering Judge (insert
 7 name here)'s qualifications and Judge (insert name here)'s
 8 performance in office, the (insert the name of the county here)
 9 County Judicial Selection Committee finds that Judge (insert
 10 name here) IS qualified and SHOULD BE retained in office."

11 (3) Take any other steps reasonably calculated to inform the
 12 general public in the county of the committee's determination.

13 (i) Subject to section 2 of this chapter, the committee may adopt
 14 policies and operating procedures to implement this section.

15 SECTION 10. IC 33-33-2-8, AS AMENDED BY P.L.169-2015,
 16 SECTION 166, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The Allen superior court
 18 consists of nine (9) judges as follows:

19 (1) Two (2) judges serve in the family relations division.

20 (2) Three (3) judges serve in the criminal division.

21 (3) Four (4) judges serve in the civil division.

22 A newly ~~elected~~ or appointed judge assumes the division assignment
 23 of the judge whom the judge replaces.

24 (b) If in the opinion of a majority of the judges there is an undue
 25 disparity in the number of cases in any division, the chief judge may
 26 assign specific cases normally assigned to that division to a judge in
 27 another division as directed by a majority of the judges.

28 (c) ~~Not later than December 31 of the year immediately preceding~~
 29 ~~a year in which the office of judge of the Allen superior court will be~~
 30 ~~on the ballot; the clerk of the circuit court shall file with the election~~
 31 ~~division a list containing the name; the division assignment; and the~~
 32 ~~court number assigned by the roster of judicial officers maintained by~~
 33 ~~the Supreme Court of Indiana; Division of State Court Administration;~~
 34 ~~for each judge of the Allen superior court.~~

35 (d) During the period under IC 3-8-2-4 in which a declaration of
 36 candidacy may be filed for a primary election; any person desiring to
 37 become a candidate for one (1) of the Allen superior court judgeships
 38 must file with the election division a declaration of candidacy adapted
 39 from the form prescribed under IC 3-8-2 that:

40 (1) is signed by the candidate; and

41 (2) designates the division and the court number of the judgeship
 42 that the candidate seeks.

43 (e) A petition without the designation required under subsection (c)
 44 shall be rejected by the election division (or by the Indiana election
 45 commission under IC 3-8-1-2):

46 (f) If an individual who files a declaration under subsection (d)

ceases to be a candidate after the final date for filing a declaration under subsection (d); the election division may accept the filing of additional declarations of candidacy for that seat not later than noon on August 1.

(c) Judges of the court shall be selected as provided in IC 33-29-7.

SECTION 11. IC 33-33-2-9, AS AMENDED BY P.L.58-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) ~~All candidates for each respective Allen superior court judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.~~

~~(b) IC 3, except where inconsistent with this chapter, applies to elections held under this chapter.~~

(c) IC 33-29-7-3 applies to the term of each Allen superior court judge.

~~(1) begins January 1 following election and ends December 31 following the election of a successor; and~~

~~(2) is six (6) years.~~

SECTION 12. IC 33-33-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) To qualify as a candidate for Allen superior court judge, a person:

(1) must be a citizen of the United States domiciled in Allen County;

(2) must have at least five (5) years active practice of law, including cases involving matters assigned to the division in which the person would serve as judge;

(3) may not previously have had any disciplinary sanction imposed upon the person by the supreme court disciplinary commission of Indiana or any similar body in another state; and

(4) may not previously have been convicted of any felony.

~~(b) If a person does not qualify under subsection (a), the person may not be listed on the ballot as a candidate. However, An individual who was a judge of the court on January 1, 1984, does not have to comply with subsection (a)(2).~~

SECTION 13. IC 33-33-2-11 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 11. ~~A judge or candidate for judge of the Allen superior court may not:~~

~~(1) accept a contribution (as defined in IC 3-5-2-15) from any political party, political action committee (as defined in IC 3-5-2-37); or regular party committee (as defined in IC 3-5-2-42); or~~

~~(2) accept more than a total of ten thousand dollars (\$10,000) in contributions from all sources to pay expenses connected with the candidate's candidacy.~~

SECTION 14. IC 33-33-2-39 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 39: (a) When a judge of the superior court:

(1) dies; resigns; 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; a judge in another division may not more than thirty (30) days after the vacancy occurs transfer to the vacant position for the remainder of the transferring judge's term. A judge who has made one (1) transfer is ineligible to make any other transfers. If more than one (1) judge desires to transfer, the most senior of these judges is entitled to transfer. After a transfer, or the thirty (30) day period if a transfer is not made, the commission shall meet to nominate three (3) candidates to fill the unexpired term of the vacancy caused by the transferring judge or the original vacancy if a transfer is not made.

(b) The clerk shall promptly notify the members of the commission of a vacancy that the commission must fill under subsection (a); and the chairman shall call a meeting of the commission within ten (10) days following that notice. The commission shall submit its nominations of three (3) candidates for the vacancy and shall certify them to the governor not later than sixty (60) days after the vacancy occurred. When it is known that a vacancy will occur at a definite future date within the term of the governor then serving:

(1) the clerk shall notify the chairman and each member of the commission immediately; and

(2) the chairman shall call a meeting of the commission within ten (10) days following that notice.

The commission may then submit its nominations of three (3) candidates for each impending vacancy and shall certify them to the governor.

(c) Meetings of the commission shall be called by its chairman; or, if the chairman fails to call a necessary meeting, upon the call of any four (4) members of the commission. Written notice of a meeting shall be given by mail to each member of the commission at least five (5) days before the meeting, unless the commission at its previous meeting designated the time and place of its next meeting.

(d) Meetings of the commission may be held in the Allen County courthouse or in another public building in Allen County designated by the commission.

(e) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members attending a meeting. The commission may adopt rules for the conduct of its proceedings and the discharge of its duties.

SECTION 15. IC 33-33-2-43 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 43: (a) A vacancy created by a superior court judge's departure from office before the expiration of the judge's term in office that is not filled by a transfer under section 39 of this chapter shall be

1 filled by appointment of the governor from the list of nominees. If the
 2 governor fails to make an appointment from the list within sixty (60)
 3 days after the list is presented to the governor, the appointment shall be
 4 made by the chief justice of the supreme court from the same list.

5 (b) The governor shall make all appointments to the Allen superior
 6 court without regard to the political affiliation of any of the nominees
 7 and shall consider only those qualifications included in section 40 of
 8 this chapter.

9 SECTION 16. IC 33-33-27-4 IS REPEALED [EFFECTIVE UPON
 10 PASSAGE]. Sec. 4. (a) The term of the judge of the Grant superior
 11 court is six (6) years beginning on the first day of January following the
 12 judge's election.

13 (b) The voters of Grant County every six (6) years at a general
 14 election shall elect a person as judge of the court.

15 SECTION 17. IC 33-33-27.2-2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The Grant
 17 superior court No. 2, is established as a court of record. The court
 18 consists of one (1) judge. ~~who shall hold office for a term of six (6)~~
 19 ~~years, beginning on the first day of January after the judge's election;~~
 20 ~~and until the judge's successor is elected and qualified. Every six (6)~~
 21 ~~years, the voters of Grant County shall elect at the general election a~~
 22 ~~judge for the Grant superior court No. 2.~~

23 SECTION 18. IC 33-33-27.3-3, AS AMENDED BY P.L.201-2011,
 24 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 3. (a) The court has one (1) judge. ~~who shall~~
 26 ~~be elected at the general election every six (6) years in Grant County.~~
 27 ~~The judge's term begins January 1 following the election and ends~~
 28 ~~December 31 following the election of the judge's successor.~~

29 (b) To be eligible to hold office as a judge of the court, a person
 30 must be:

- 31 (1) a resident of Grant County; and
- 32 (2) admitted to the practice of law in Indiana.

33 SECTION 19. IC 33-33-45-21, AS AMENDED BY P.L.201-2011,
 34 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 21. (a) The court is divided into civil
 36 (including probate), criminal, county, and juvenile divisions. The work
 37 of the court shall be divided among the divisions by the rules of the
 38 court.

39 (b) Seven (7) judges comprise the civil division. Four (4) judges
 40 comprise the criminal division. Four (4) judges comprise the county
 41 division. One (1) judge comprises the juvenile division. However, the
 42 court by rule may alter the number of judges assigned to a division of
 43 the court if the court determines that the change is necessary for the
 44 efficient operation of the court.

45 (c) The court by rule may reassign a judge of the court from one (1)
 46 division to another if the court determines that the change is necessary

for the efficient operation of the court. The court by rule may establish a rotation schedule providing for the rotation of judges through the various divisions. The rotation schedule may be used if the court determines that an emergency exists. However, a senior judge of any division may not be reassigned or rotated to another division under this subsection.

(d) The chief judge of the court may assign a judge in one (1) division of the court to hear a case originating in another division of the court, and may reassign cases from one (1) judge to another, if the chief judge determines that the change is necessary for the efficient operation of the court.

(e) A judge of a division of the court who has not been appointed to the court under section 38 of this chapter is not eligible to be reassigned, rotated, or transferred to the other divisions of the court. However, a judge of a division of the court who has not been appointed to the court under section 38 of this chapter may apply to fill a vacancy in another division of the court through appointment as provided under this chapter.

SECTION 20. IC 33-33-45-25 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 25: (a) At the general election immediately preceding the expiration of a judge's extended term, the question of that judge's retention in office or rejection shall be submitted to the electorate of Lake County under section 42 of this chapter. Thereafter, unless rejected by the electorate, each judge shall serve successive terms as provided in section 41(b) of this chapter.

(b) A judge of the county division serving on June 30, 2011, is subject to the question of the judge's retention in office or rejection as provided in subsection (a) at the expiration of the judge's term of office under the law in effect on June 30, 2011.

SECTION 21. IC 33-33-45-27 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 27: (a) There is established a judicial nominating commission for the superior court of Lake County; the functions, responsibilities, and procedures of which are set forth in sections 28 through 37 of this chapter.

(b) The board of county commissioners of Lake County shall provide all facilities, equipment, supplies, and services as may be necessary for the administration of the duties imposed upon the commission. The members of the commission shall serve without compensation. However, the board of county commissioners of Lake County shall reimburse members of the commission for actual expenses incurred in performing their duties.

SECTION 22. IC 33-33-45-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27.5. Judges of the superior court shall be selected as provided in IC 33-29-7.**

SECTION 23. IC 33-33-45-28 IS REPEALED [EFFECTIVE UPON

PASSAGE]. Sec. 28: (a) The judicial nominating commission (referred to in this chapter as the commission) consists of nine (9) members; the majority of whom form a quorum. The chief justice of the supreme court (or a justice of the supreme court or judge of the court of appeals designated by the chief justice) shall be a member and shall act as chairman.

(b) Under sections 30 and 31 of this chapter, those admitted to the practice of law and residing in Lake County shall elect four (4) of their members to serve on the commission; subject to the following:

(1) At least one (1) attorney member must be a minority individual (as defined in IC 21-13-1-6):

(2) Two (2) attorney members must be women:

(3) Two (2) attorney members must be men:

(c) The Lake County board of commissioners shall appoint four (4) nonattorney citizens to the commission; subject to the following:

(1) Each of the three (3) county commissioners shall appoint one (1) nonattorney member who is a resident of the appointing commissioner's district:

(2) After each county commissioner has had the opportunity to make the county commissioner's appointment, the fourth nonattorney member must be appointed by a majority vote of the Lake County board of commissioners:

(3) At least one (1) nonattorney member must be a minority individual (as defined in IC 21-13-1-6):

(4) Two (2) nonattorney members must be women:

(5) Two (2) nonattorney members must be men:

(6) Not more than two (2) of such appointees may be from the same political party:

The appointees must reflect the composition of the community. If the Lake County board of commissioners fails to appoint any of the nonattorney commission members within the time required to do so in section 29 of this chapter, the appointment shall be made by the chief justice of the supreme court:

(d) A member of the commission, other than a judge or justice, may not hold any other elected public office. A member may not hold an office in a political party or organization. A nonattorney member of the commission may not hold an elected or salaried public office. A nonattorney member may not be an employee of the state or of a political subdivision of the state:

(e) A member of the commission is not eligible for appointment to a judicial office in Lake County if the member is a member of the commission and for three (3) years thereafter:

(f) If any member of the commission, other than a judge or justice, terminates the member's residence in Lake County, the member is considered to have resigned from the commission:

SECTION 24. IC 33-33-45-29 IS REPEALED [EFFECTIVE UPON

1 PASSAGE]. Sec. 29: (a) The Lake County board of commissioners
2 shall appoint the four (4) nonattorney members of the commission.

3 (b) One (1) month before the expiration of a term of office of a
4 nonattorney commissioner, an appointment or reappointment shall be
5 made in accordance with section 28 of this chapter. All appointments
6 made by the Lake County board of commissioners shall be certified to
7 the secretary of state, the clerk of the supreme court, and the clerk of
8 Lake circuit court within ten (10) days after the appointment.

9 (c) Each nonattorney member shall be appointed for a term of four
10 (4) years.

11 (d) Whenever a vacancy occurs in the office of a nonattorney
12 commissioner, the chairman of the commission shall promptly notify
13 the Lake County board of commissioners in writing of such fact.
14 Vacancies in the office of nonattorney commissioners shall be filled by
15 appointment of the Lake County board of commissioners within sixty
16 (60) days after notice of the vacancy is received. The term of the
17 nonattorney commissioner appointed is for the unexpired term of the
18 member whose vacancy the new member has filled.

19 SECTION 25. IC 33-33-45-29.5 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE UPON PASSAGE]: **Sec. 29.5. Judges of the superior**
22 **court shall be selected as provided in IC 33-29-7.**

23 SECTION 26. IC 33-33-45-30 IS REPEALED [EFFECTIVE UPON
24 PASSAGE]. Sec. 30: (a) Those admitted to the practice of law and
25 residing in Lake County (referred to in this chapter as attorney electors)
26 shall elect four (4) of their number to the commission. To be eligible
27 for the office of attorney commissioner, a person must be on the current
28 annual list of attorneys certified to the clerk of the supreme court and
29 must be a resident of Lake County. The term of office of each elected
30 attorney member is four (4) years, commencing on the first day of
31 October following the attorney member's election. The election day is
32 the date on which the ballots are counted and, for purposes of this
33 section, is the first Tuesday in September 1995, and every four (4)
34 years thereafter. Thereafter, during the month before the expiration of
35 each attorney commissioner's term of office, an election shall be held
36 to fill the succeeding four (4) year term of office.

37 (b) Except when a term of office has less than ninety (90) days
38 remaining, vacancies in the office of an attorney commissioner to the
39 commission shall be filled for the unexpired term of the member
40 creating the vacancy by a special election.

41 SECTION 27. IC 33-33-45-31 IS REPEALED [EFFECTIVE UPON
42 PASSAGE]. Sec. 31: The attorney members of the commission shall be
43 elected by the following process:

44 (1) The clerk of the Lake circuit court shall, at least ninety (90)
45 days before the date of election, notify all attorneys in Lake
46 County of the upcoming election by mail, informing them that

1 nominations must be made to the clerk of the circuit court at least
 2 sixty (60) days before the election. The clerk shall secure a list of
 3 all attorneys and their correct addresses from the clerk of the
 4 supreme court.

5 (2) A nomination in writing; accompanied by a signed petition of
 6 ten (10) attorney electors; and the written consent of the qualified
 7 nominee shall be filed by any attorney elector or group of attorney
 8 electors residing in Lake County, by mail or otherwise, in the
 9 office of the clerk of the Lake circuit court at least sixty (60) days
 10 before the election.

11 (3) The clerk of the Lake circuit court shall prepare and print
 12 ballots containing the names and residential addresses of all
 13 attorney nominees whose written nominations, petitions, and
 14 written statements of consent have been received sixty (60) days
 15 before the election.

16 (A) The ballot shall read:

17 "SUPERIOR COURT OF LAKE COUNTY
 18 NOMINATING COMMISSION BALLOT

19 To be cast by individuals residing in Lake County and admitted
 20 to the practice of law in Indiana. Vote for not more than four (4)
 21 of the following candidates for the term commencing _____.

22 (Name)(Address)

23 (Name)(Address)

24 (etc.) (etc.)

25 To be counted, this ballot must be completed; the accompanying
 26 certificate completed and signed; and both together mailed or
 27 delivered to the clerk of the Lake circuit court not later than
 28 _____.

29 "DESTROY BALLOT IF NOT USED".

30 (B) The four (4) nominees receiving the most votes whose
 31 election does not conflict with the requirements of section
 32 28(b) of this chapter shall be elected.

33 (4) The clerk shall also supply with each ballot distributed by the
 34 clerk a certificate; to be completed and signed and returned by the
 35 attorney elector voting such ballot; certifying that the attorney
 36 elector is admitted to the practice of law in Indiana; that the
 37 attorney elector resides in Lake County; and that the attorney
 38 elector voted the ballot returned. A ballot not accompanied by the
 39 signed certificate of the voter shall not be counted.

40 (5) To maintain the secrecy of each vote; a separate envelope
 41 shall be provided by the clerk for the ballot; in which only the
 42 voted ballot is to be placed. This envelope shall not be opened
 43 until the counting of the ballots.

44 (6) The clerk of the Lake circuit court shall mail a ballot and its
 45 accompanying material to all qualified attorney electors at least
 46 two (2) weeks before the date of election.

(7) Upon receiving the completed ballots and the accompanying certificate, the clerk shall ensure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(8) The clerk of the Lake circuit court, with the assistance of the Lake County election board, shall open and canvass all ballots after 4 p.m. on the day of election in the office of the clerk of the Lake circuit court. Ballots received after 4 p.m. may not be counted unless the chairman of the judicial nominating commission orders an extension of time because of extraordinary circumstances. Upon canvassing the ballots, the clerk shall place all ballots back in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk shall permit no one to inspect them except upon an order of the supreme court.

(9) In any election held for selection of attorney members of the commission, in case two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give the nominee a plurality, the canvasser shall resolve the tie by lot and the winner of the lot is considered to be elected.

SECTION 28. IC 33-33-45-32 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 32: After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state, clerk of the supreme court, and clerk of the Lake circuit court as this chapter provides;

the clerk of the Lake circuit court shall by regular mail notify the members of the commission of their election or appointment and shall notify the chairman of the judicial nominating commission of the same.

SECTION 29. IC 33-33-45-33 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 33: A member of the judicial nominating commission may serve until the member's successor is appointed or elected. An attorney commissioner or a nonattorney commissioner is not eligible for more than two (2) successive reelections or reappointments.

SECTION 30. IC 33-33-45-34 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 34: (a) When a vacancy occurs in the superior court of Lake County, the clerk of the court shall promptly notify the chairman and each member of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following the notice. The commission shall submit its nominations of three (3) candidates for each vacancy and certify them to the governor as promptly as possible; and not later than sixty (60) days after the

vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the governor then serving; but the vacancy has not yet occurred; the clerk shall notify the chairman and each member of the commission immediately of the forthcoming vacancy; and the commission may within fifty (50) days of the notice of the vacancy make its nominations and submit to the governor the names of three (3) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by its chairman or, if the chairman fails to call a necessary meeting, upon the call of any five (5) members of the commission. The chairman, whenever the chairman considers a meeting necessary; or upon the request by any five (5) members of the commission for a meeting; shall give each member of the commission at least five (5) days written notice by mail of the date, time, and place of every meeting unless the commission at its previous meeting designated the date, time, and place of its next meeting.

(c) Meetings of the commission are to be held at the Lake County government center in Crown Point or another place, as the circuit court clerk of Lake County may arrange, at the direction of the chairman of the commission.

(d) The commission may act only at a public meeting. IC 5-14-1.5 applies to meetings of the commission. The commission may not meet in executive session under IC 5-14-1.5-6.1 for the consideration of a candidate for judicial appointment.

(e) The commission may act only by the concurrence of a majority of its members attending a meeting. Five (5) members constitute a quorum at a meeting.

(f) The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties. These rules must provide for the receipt of public testimony concerning the qualifications of candidates for nomination to the governor.

SECTION 31. IC 33-33-45-35 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 35: In selecting the three (3) nominees to be submitted to the governor; the commission shall comply with the following requirements:

(1) The commission shall submit only the names of the three (3) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the superior court of Lake County, a person must be domiciled in the county of Lake; a citizen of the United States; and admitted to the practice of law in Indiana.

(2) In abiding by the mandate in subdivision (1); the commission shall evaluate in writing each eligible individual on the following factors:

(A) Law school record; including any academic honors and

1 achievements:

2 (B) Contribution to scholarly journals and publications;
3 legislative drafting; and legal briefs.

4 (C) Activities in public service, including:

5 (i) writings and speeches concerning public or civic affairs
6 that are on public record; including but not limited to
7 campaign speeches or writings; letters to newspapers; and
8 testimony before public agencies;

9 (ii) government service;

10 (iii) efforts and achievements in improving the
11 administration of justice; and

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

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

16 (E) Probable judicial temperament.

17 (F) Physical condition; including age; stamina; and possible
18 habitual intemperance.

19 (G) Personality traits; including the exercise of sound
20 judgment; ability to compromise and conciliate; patience;
21 decisiveness; and dedication.

22 (H) Membership on boards of directors; financial interests; and
23 any other consideration that might create conflict of interest
24 with a judicial office.

25 (I) Any other pertinent information that the commission feels
26 is important in selecting the best qualified individuals for
27 judicial office.

28 (3) These written evaluations shall not be made on an individual
29 until the individual states in writing that the individual desires to
30 hold a judicial office that is or will be created by vacancy.

31 (4) The political affiliations of any candidate may not be
32 considered by the commission in evaluating and determining
33 which eligible candidates shall be recommended to the governor
34 for a vacancy on the superior court of Lake County.

35 (5) In determining which eligible candidates are recommended to
36 the governor; the commission shall consider that racial and gender
37 diversity enhances the quality of the judiciary.

38 SECTION 32. IC 33-33-45-36 IS REPEALED [EFFECTIVE UPON
39 PASSAGE]. Sec. 36: (a) The commission shall submit with the list of
40 three (3) nominees to the governor its written evaluation of the
41 qualifications of each candidate.

42 (b) The names of the nominees and the written evaluations are
43 public records that may be inspected and copied under IC 5-14-3.

44 (c) Every eligible candidate whose name was not submitted to the
45 governor shall have access to any evaluation on the candidate by the
46 commission and the right to make such evaluation public.

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

SECTION 33. IC 33-33-45-37 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 37: (a) After the commission has nominated and submitted to the governor the names of three (3) persons for appointment to fill a vacancy of the superior court of Lake County:

(1) any name may be withdrawn for cause considered by the commission to be of a substantial nature affecting the nominee's qualifications to hold office; and

(2) another name may be substituted;
before the appointment is made to fill the vacancy.

(b) If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If two (2) or more vacancies exist, the commission shall nominate and submit to the governor a list of three (3) different persons for each of the vacancies. The commission may, before an appointment is made, withdraw the lists of nominations, change the names of any persons nominated from one (1) list to another, and resubmit them as changed, or may substitute a new name for any of those previously nominated.

SECTION 34. IC 33-33-45-38 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 38: (a) A vacancy occurring on the court shall be filled by appointment of the governor from a list of three (3) nominees presented to the governor by the judicial nominating commission. If the governor fails to make an appointment from the list within sixty (60) days after the day it is presented to the governor, the appointment shall be made by the chief justice or the acting chief justice of the supreme court from the same list, or altered list as provided for in section 37 of this chapter.

(b) The governor shall make all appointments to the court without regard to the political affiliation of any of the three (3) nominees submitted to the governor. In the interest of justice, the governor shall consider only those qualifications of the nominees included in section 35 of this chapter.

SECTION 35. IC 33-33-45-40 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 40: An appointment by the governor or chief justice, as required by section 38 of this chapter, to the superior court of Lake County takes effect immediately if a vacancy exists at the date of the appointment. The appointment takes effect on the date the vacancy is created if a vacancy does not exist at the date of appointment.

SECTION 36. IC 33-33-45-41, AS AMENDED BY P.L.201-2011, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 41. (a) Each judge appointed under section 38

of this chapter serves an initial term; which begins on the effective date of the appointment of the judge and continues through December 31 in the year of the general election that follows the expiration of two (2) years after the effective date of the judge's appointment.

(b) Unless rejected by the electorate of Lake County under section 42 of this chapter, a judge of the superior court shall serve successive six (6) year terms.

(c) Each six (6) year term begins on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term; as the case may be, and continues for six (6) years.

IC 33-29-7-3 applies to the term of the judges of the superior court.

SECTION 37. IC 33-33-45-42 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 42. (a) The question of the retention in office or rejection of each judge of the superior court of Lake County shall be submitted to the electorate of Lake County at the general election immediately preceding expiration of the term of the judge.

(b) At the general election, the question of the retention in office or rejection of a judge described in subsection (a) shall be submitted to the electorate of Lake County in the form prescribed by IC 3-11 and must state "Shall Judge (insert name) of the superior court of Lake County be retained in office for an additional term?".

(c) If a majority of the ballots cast by the electors voting on any question is "Yes", the judge whose name appeared on the question shall be approved for a six (6) year term beginning January 1 following the general election as provided in section 41(b) of this chapter.

(d) If a majority of the ballots cast by the electors voting on any question is "No", the judge whose name appeared on the question shall be rejected. The office of the rejected judge is vacant on January 1 following the rejection. The vacancy shall be filled by appointment by the governor under section 38 of this chapter.

(e) The Lake County election board shall submit the question of the retention in office or rejection of a judge described in subsection (a) to the electorate of Lake County. The submission of the question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(f) If a judge who is appointed does not desire to serve any further term, the judge shall notify in writing the clerk of the Lake circuit court at least sixty (60) days before any general election; in which case the question of that judge's retention in office or rejection shall not be submitted to the electorate, and the office becomes vacant at the expiration of the term.

SECTION 38. IC 33-33-64-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) There is established a court of record to be known as Porter superior court. The Porter superior court has five (5) judges. who hold office for six (6) years; beginning on the first day of January after their election and until

1 their successors are elected and qualified. Every six (6) years the voters
 2 of Porter County shall elect at the general election the judges for the
 3 superior court.

4 (b) The judges of the Porter superior court are designated as
 5 follows:

6 (1) Two (2) judges are judges of the superior court, superior
 7 division.

8 (2) Three (3) judges are judges of the superior court, county
 9 division.

10 SECTION 39. IC 33-33-71-30 IS REPEALED [EFFECTIVE UPON
 11 PASSAGE]. Sec. 30: (a) The judicial nominating commission (referred
 12 to as the "commission" in this chapter) consists of seven (7) members;
 13 the majority of whom shall form a quorum. The chief justice shall
 14 appoint a justice of the supreme court or a judge of the court of appeals
 15 to serve as a member and chairman of the commission until a successor
 16 is appointed. Those admitted to the practice of law in Indiana and
 17 residing in St. Joseph County or maintaining their principal law office
 18 in St. Joseph County shall elect, under sections 32 and 33 of this
 19 chapter, three (3) of their number to serve as attorney members of the
 20 commission. If any attorney member of the commission terminates
 21 residence in St. Joseph County or discontinues the maintenance of a
 22 principal law office in St. Joseph County, the member shall be
 23 considered to have resigned from the commission. The three (3)
 24 remaining members of the commission must be persons not admitted
 25 to the practice of law (referred to as "nonattorney members" in this
 26 chapter) and residents of St. Joseph County. However, not more than
 27 two (2) of the nonattorney members may be from the same political
 28 party and that the appointment of the nonattorney members of the
 29 commission shall be made under section 31 of this chapter. Not more
 30 than four (4) commission members may be from the same political
 31 party.

32 (b) A member of the commission may not hold any other salaried
 33 public office nor an office in a political party organization. A member
 34 of the commission is not eligible for appointment to a judicial office in
 35 St. Joseph County who has, within four (4) years immediately
 36 preceding an appointment, served on the commission. If any
 37 nonattorney member of the commission terminates residence in St.
 38 Joseph County, the member is considered to have resigned from the
 39 commission.

40 SECTION 40. IC 33-33-71-31 IS REPEALED [EFFECTIVE UPON
 41 PASSAGE]. Sec. 31: (a) The appointment to membership on the
 42 commission of the nonattorney members shall be made by a selection
 43 committee consisting of the judge of the St. Joseph circuit court, the
 44 president of the board of St. Joseph County commissioners, and mayors
 45 in each of the two (2) cities having the largest populations in St. Joseph
 46 County. These appointments shall be made by a majority vote of the

selection committee. If a vacancy occurs on the commission among the nonattorney members, that fact shall be reported to the judge of the St. Joseph circuit court by the commission. Upon notification, the judge of the St. Joseph circuit court shall call into session the selection committee, which shall, by majority vote, select a person or persons not admitted to the practice of law, who shall serve the unexpired term of the vacant commission membership position and that this selection and appointment by the selection committee shall be made within sixty (60) days after the date the St. Joseph circuit court is notified of the creation of the vacancy. If the selection committee fails to act to fill an unexpired term of a nonattorney member of the commission within sixty (60) days after the notification that the vacancy exists, the vacancy shall be filled by a majority vote of the remaining members of the commission.

(b) Not less than sixty (60) days before the expiration of the term of a nonattorney member of the commission, the judge of the St. Joseph circuit court shall call into session the selection committee that shall appoint, by a majority vote, a person to the commission to serve a new term. If the selection committee fails to act to fill an expired term of a nonattorney member of the commission by the date of expiration of the term of a nonattorney member of the commission, the remaining members on the commission shall, by majority vote, appoint a person to serve for the succeeding term. All appointments made to the commission shall be certified within ten (10) days to the clerk of the St. Joseph superior court.

(c) Each appointee of a nonattorney member to the commission, except those who fill a vacancy, shall serve for four (4) years.

SECTION 41. IC 33-33-71-32 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 32: (a) Each year in which an attorney member's term expires, those admitted to the practice of law in Indiana and residing in St. Joseph County (referred to as "attorney electors" in this chapter) shall elect three (3) of their number to serve on the commission. Each attorney member of the commission shall serve for four (4) years. The term of each attorney member begins on the first day of October following the member's election. The election day is the date on which the ballots are counted. During the month before the expiration of each attorney commissioner's term of office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the commission shall be filled for the unexpired term of the member creating the vacancy by a special election.

SECTION 42. IC 33-33-71-33 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 33: The attorney members of the commission shall be elected by the following process:

(1) The clerk of the St. Joseph superior court shall at least ninety

(90) days before the date of election notify all attorneys in St. Joseph County of the upcoming election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days before the election. The clerk shall secure a list of all attorneys in the county and their correct addresses from the clerk of the supreme court.

(2) A nomination in writing accompanied by a signed petition of ten (10) attorney electors, and the written consent of the qualified nominee shall be filed by an attorney elector or group of attorney electors residing in St. Joseph County; by mail or otherwise; in the office of the clerk of St. Joseph superior court at least sixty (60) days before the election.

(3) The clerk of St. Joseph superior court shall prepare and print ballots containing the names and residence addresses of all attorney nominees whose written nominations, petitions and written statements of consent have been received sixty (60) days before the election.

The ballot must read:

"ST. JOSEPH SUPERIOR COURT

NOMINATING COMMISSION BALLOT

To be cast by individuals residing in St. Joseph County and admitted to the practice of law in Indiana. Vote for one (1) of the following candidates for the term commencing:

(Insert Date)

()

(Name) (Address)

()

(Name) (Address)

()

(etc.) (etc.)

To be counted, this ballot must be completed; the accompanying certificate completed and signed; and both together mailed or delivered to the clerk of St. Joseph superior court not later than _____ (insert date).

DESTROY BALLOT IF NOT USED".

(4) The nominee receiving the most votes is elected.

(5) The clerk shall also supply with each ballot distributed by the clerk a certificate; to be completed and signed and returned by the attorney elector voting that ballot; certifying that the attorney elector is admitted to the practice of law in Indiana; resides in St. Joseph County; and voted the ballot returned. A ballot not accompanied by the signed certificate of the voter may not be counted.

(6) To maintain the secrecy of each vote; a separate envelope shall be provided by the clerk for the ballot; in which only the voted ballot is to be placed. This envelope may not be opened

until the counting of the ballots:

(7) The clerk of St. Joseph superior court shall mail a ballot and its accompanying material to all qualified attorney electors at least two (2) weeks before the date of election:

(8) Upon receiving the completed ballots and the accompanying certificates, the clerk shall insure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package:

(9) The clerk of St. Joseph superior court, with the assistance of the St. Joseph County election board, shall open and canvass all ballots at 4 p.m. on the day of election in the office of the clerk of St. Joseph superior court. Ballots received after 4 p.m. may not be counted. Upon canvassing the ballots the clerk shall place all ballots back in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months. The clerk may not allow a person to inspect them except upon an order of the court of appeals:

(10) In any election held for selection of attorney members of the commission, in case two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give that nominee a plurality, the canvassers shall resolve the tie by lot, and the winner of the lot is considered elected:

SECTION 43. IC 33-33-71-34 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 34: After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the selection committee have been certified to the secretary of state, clerk of the supreme court, and the clerk of St. Joseph superior court under this chapter;

the clerk of St. Joseph superior court shall by regular mail notify the members of the commission of their election or appointment, and shall notify the chairman of the commission of the same:

SECTION 44. IC 33-33-71-35 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 35: A person who has been elected or appointed to a full four (4) year term upon the commission may not succeed himself or herself or be eligible for election or appointment to the commission for four (4) years after the expiration of the term to which the person was elected or appointed:

SECTION 45. IC 33-33-71-36 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 36: (a) When a vacancy occurs in the St. Joseph superior court, the clerk of the court shall promptly notify the chairman of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following this notice. The

commission shall submit its nominations of five (5) candidates for each vacancy and certify them to the governor as promptly as possible; and not later than sixty (60) days after the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the serving governor; but the vacancy has not yet occurred; the clerk shall notify the commission immediately. The commission may within fifty (50) days of the notice of vacancy make its nominations and submit to the governor the names of five (5) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by the chairman or; if the chairman fails to call a necessary meeting; upon the call of any four (4) members of the commission. The chairman, whenever the chairman considers a meeting necessary, or upon the request by any four (4) members of the commission for a meeting; shall give each member of the commission at least five (5) days written notice by mail of the time and place of every meeting unless the commission at its previous meeting designated the time and place of its next meeting.

(c) Meetings of the commission must be held at a place in:

(1) the St. Joseph County courthouse; or

(2) another building owned or operated by St. Joseph County; in South Bend as the clerk of the St. Joseph superior court may arrange.

(d) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members. Four (4) members are required to constitute a quorum at a meeting. The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties.

SECTION 46. IC 33-33-71-37 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 37: (a) The commission shall submit only the names of the five (5) most highly qualified candidates from among those eligible individuals considered. To be eligible for nomination as a judge of the St. Joseph superior court, a person must be domiciled in the county of St. Joseph; a citizen of the United States; and admitted to the practice of law in the courts of Indiana.

(b) In abiding by the mandate in subsection (a); the commission shall evaluate in writing each eligible individual on the following factors:

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

(2) Contribution to scholarly journals and publications; legislative draftings; and legal briefs.

(3) Activities in public service; including:

(A) writings and speeches concerning public or civic affairs which 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

- 1 of justice; and
- 2 (C) other conduct relating to the individual's profession:
- 3 (4) Legal experience, including the number of years of practicing
- 4 law, the kind of practice involved, and reputation as a trial lawyer
- 5 or judge.
- 6 (5) Probable judicial temperament.
- 7 (6) Physical condition, including age, stamina, and possible
- 8 habitual intemperance.
- 9 (7) Personality traits, including the exercise of sound judgment,
- 10 ability to compromise and conciliate patience, decisiveness, and
- 11 dedication.
- 12 (8) Membership on boards of directors, financial interest, and any
- 13 other consideration that might create conflict of interest with a
- 14 judicial office.
- 15 (9) Any other pertinent information that the commission feels is
- 16 important in selecting the best qualified individuals for judicial
- 17 office.
- 18 (c) Written evaluations may not be made on an individual until the
- 19 individual states in writing that the individual desires to hold a judicial
- 20 office that is or will be created by vacancy.
- 21 (d) The political affiliations of any candidate may not be considered
- 22 by the commission in evaluating and determining which eligible
- 23 candidates shall be recommended to the governor for a vacancy on the
- 24 St. Joseph superior court.
- 25 SECTION 47. IC 33-33-71-38 IS REPEALED [EFFECTIVE UPON
- 26 PASSAGE]. Sec. 38: The commission shall submit with the list of five
- 27 (5) nominees to the governor its written evaluation of the qualifications
- 28 of each candidate; and the names and written evaluations shall be
- 29 publicly disclosed. Every eligible candidate whose name was not
- 30 submitted to the governor is entitled to access to any evaluation of the
- 31 candidate by the commission and the right to make the evaluation
- 32 public. Otherwise, the evaluation, including the names of the
- 33 candidates applying for the office, shall remain confidential. If the
- 34 commission determines that there are less than five (5) persons
- 35 qualified under section 40 of this chapter, the commission must submit
- 36 a lesser number under section 40 of this chapter.
- 37 SECTION 48. IC 33-33-71-39 IS REPEALED [EFFECTIVE UPON
- 38 PASSAGE]. Sec. 39: (a) After the commission has nominated and
- 39 submitted to the governor the names of five (5) persons for
- 40 appointment to fill a vacancy of the St. Joseph superior court:
- 41 (1) any name may be withdrawn for a cause considered by the
- 42 commission to be of a substantial nature affecting the nominee's
- 43 qualifications to hold office; and
- 44 (2) another name may be substituted at any time before the
- 45 appointment is made to fill the vacancy.
- 46 (b) If a nominee dies, or requests in writing that the nominee's name

1 be withdrawn, the commission shall nominate another person to replace
2 the nominee:

3 (c) If there are existing at the same time two (2) or more vacancies
4 on the court, the commission shall nominate and submit to the governor
5 a list of five (5) different persons for each of the vacancies. The
6 commission may before an appointment is made:

7 (1) withdraw the lists of nominations;

8 (2) change the names of any persons nominated from one (1) list
9 to another; and

10 (3) resubmit the lists as changed or substitute a new name for any
11 of those previously nominated.

12 SECTION 49. IC 33-33-71-40 IS REPEALED [EFFECTIVE UPON
13 PASSAGE]. Sec. 40: (a) A vacancy occurring in the St. Joseph superior
14 court shall be filled by appointment of the governor from a list of
15 nominees presented to the governor by the judicial nominating
16 commission. If the governor fails to make an appointment from the list
17 within sixty (60) days from the day it is presented to the governor, the
18 appointment shall be made by the chief justice or the acting chief
19 justice of the supreme court from the same list presented to the
20 governor.

21 (b) The governor shall make all appointments to the St. Joseph
22 superior court without regard to the political affiliation of any of the
23 nominees submitted to the governor. In the interest of justice, the
24 governor shall consider only those qualifications of the nominees
25 included in section 37 of this chapter.

26 (c) If the St. Joseph County judicial nominating commission, by a
27 vote of any five (5) of its members, determines that, of the persons
28 considered for any existing or expected vacancy in the St. Joseph
29 superior court, less than five (5) are qualified for judicial office, within
30 the scope of this chapter, the commission shall certify that
31 determination to the governor together with the name or names of the
32 person or persons found to be qualified under this chapter. In that
33 event, the governor, chief justice, or acting chief justice shall make the
34 selection or, if only one (1) name is submitted, make the appointment.

35 SECTION 50. IC 33-33-71-41 IS REPEALED [EFFECTIVE UPON
36 PASSAGE]. Sec. 41: An appointment by the governor, chief justice, or
37 acting chief justice, as required by section 40 of this chapter, to the St.
38 Joseph County superior court shall take effect immediately if a vacancy
39 exists at the date of the appointment. The appointment shall take effect
40 on the date the vacancy is created if a vacancy does not exist on the
41 date of the appointment.

42 SECTION 51. IC 33-33-71-42 IS AMENDED TO READ AS
43 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 42. (a) Each judge
44 appointed serves an initial term that begins on the effective date of the
45 judge's appointment and continues through December 31 in the year of
46 the general election that follows the expiration of two (2) years after the

effective date of the judge's appointment. Each judge of the superior court shall be selected as described in IC 33-29-7.

(b) Thereafter, unless rejected by the electorate of St. Joseph County under this chapter, each judge of the St. Joseph superior court serves successive six (6) year terms. Each successive six (6) year term begins on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term and continues for six (6) years. IC 33-29-7-3 applies to the term of each judge of the superior court.

SECTION 52. IC 33-33-71-43 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 43. (a) The question of the retention in office or rejection of each judge of the St. Joseph superior court shall be submitted to the electorate of St. Joseph County at the general election immediately preceding expiration of the term of that judge.

(b) If a judge subject to this chapter does not desire to serve a further term, the judge shall notify the judge's intention in writing to the clerk of the St. Joseph circuit court at least sixty (60) days before the general election immediately preceding expiration of the judge's term in which case the question of the judge's retention in office or rejection may not be submitted to the electorate, and the office is vacant at the expiration of the term.

(c) The St. Joseph County election board shall submit the question of the retention in office or rejection of any judge to the electorate of St. Joseph County. The submission of this question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(d) At the general election, the question of the retention in office or rejection of a judge shall be submitted to the electorate of St. Joseph County in the form prescribed by IC 3-11 and must state "Shall Judge (insert name) of the St. Joseph superior court be retained in office for an additional term?"

(e) If a majority of the ballots cast by the electors voting on the question is "No", the judge whose name appeared on such question is rejected. The office of the rejected judge is vacant on January 1 following the rejection. The vacancy shall be filled by appointment of the governor under section 40 of this chapter. The name of the rejected judge may not be included among those submitted to the governor. However, the judge's rejection does not disqualify a rejected judge from being considered for another judicial office that becomes vacant.

SECTION 53. IC 33-33-71-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44. (a) During a term of office, a judge of the St. Joseph superior court may not engage in the practice of law, run for an elective office other than a judicial office, or directly or indirectly make any contributions to or hold any office in a political party or organization. A judge may not take part in any political campaign except as a candidate for retention in judicial office and, in that event, the judge's campaign participation must be

absolutely devoid of partisan association and be limited to activities designed to acquaint the electorate with the judge's judicial record.

(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications established by section 45 of this chapter to recommend to the supreme court that the judge be censured or removed from office.

SECTION 54. IC 33-33-71-45 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 45. There is established a commission on judicial qualifications for the St. Joseph superior court, whose membership is the same as that of the judicial nominating commission under section 29 of this chapter. The commission on judicial qualifications may employ special counsel in any proceedings it undertakes under the responsibilities imposed upon it by this chapter.

SECTION 55. IC 33-33-71-46 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 46: (a) On recommendation of the commission on judicial qualifications, the supreme court may suspend a judge of the St. Joseph superior court from office without salary when in any court in the United States the judge enters a plea of guilty or nolo contendere to, or is found guilty of, any crime punishable as a felony under the laws of Indiana or of the United States, or of any other crime that involves moral turpitude under that law. If the judge's conviction is reversed, suspension terminates, and the judge shall be paid the judge's salary for the period of suspension. If the judge is suspended and the judge's conviction is affirmed or otherwise becomes final, the supreme court shall remove the judge from office.

(b) On recommendation of the commission on judicial qualifications, the supreme court may:

(1) retire a judge of the St. Joseph superior court for disability that seriously interferes with the performance of the judge's duties and is likely to become permanent; and

(2) censure or remove a judge of the St. Joseph superior court for conduct occurring not more than six (6) years before the commencement of the judge's current term, when the conduct constitutes willful misconduct in office; willful and persistent failure to perform the judge's duties; habitual intemperance; or conduct prejudicial to the administration of justice or that brings or tends to bring judicial office into disrepute.

(c) When the supreme court receives any recommendation from the commission on judicial qualifications, it shall hold a hearing, at which the affected judge is entitled to attend, and shall make a determination as is required. The supreme court shall make rules regarding the convening and conduct of hearings, which shall, upon request of the judge whom it concerns, be public.

SECTION 56. IC 33-33-71-47 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 47: (a) The commission on judicial qualifications shall meet periodically as necessary to discharge its statutory

responsibilities. Meetings of the commission on judicial qualifications shall be called in the same manner as prescribed for the judicial nominating commission. A quorum for the transaction of business is four (4) members.

(b) The clerk of the St. Joseph circuit court shall make arrangements for a meeting place in St. Joseph County as the commission may request.

(c) The commission on judicial qualifications may act only at a meeting. The commission on judicial qualifications may adopt reasonable and proper rules and regulations for the conduct of its meetings and discharge of its duties.

SECTION 57. IC 33-33-71-48 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 48: (a) All papers filed with and proceedings had before the commission on judicial qualifications before the institution of formal proceedings are confidential unless the judge against whom a complaint has been filed elects to have the information divulged or unless the commission elects to answer publicly disseminated statements issued by any complainant.

(b) All papers filed with the commission on judicial qualifications at the time of or after the institution of formal proceedings are open for public inspection at all reasonable times. Records of proceedings are open for public inspection at all reasonable times. All hearings and proceedings before the commission on judicial qualifications are open to the public.

SECTION 58. IC 33-33-71-49 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 49: The filing of papers with or the giving of testimony before the commission on judicial qualifications under this chapter are absolutely privileged in any action for defamation.

SECTION 59. IC 33-33-71-50 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 50: Complaints directed to the commission on judicial qualifications do not have to be in writing. A specified form of complaint may be required if presented in writing.

SECTION 60. IC 33-33-71-51 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 51: (a) Any citizen of Indiana may complain to the commission on judicial qualifications with reference to the activities, fitness, or qualifications of any judge of the St. Joseph superior court. Upon receiving a complaint or request, the commission on judicial qualifications shall make an initial inquiry to determine if a complaint is founded and not frivolous. The commission on judicial qualifications, without receiving a complaint, may make an initial inquiry on its own motion.

(b) If the commission on judicial qualifications considers it necessary as a result of its initial inquiry to conduct further investigation, the judge involved may then be notified of the investigation, the nature of the charge, the complaint that must be in writing, the name of the person making the complaint, if any, or that

the investigation is on the commission's own motion and the judge shall be afforded reasonable opportunity in the course of the investigation to present matters as the judge may choose. When this notice is given, it must be by prepaid registered or certified mail addressed to the judge at the judge's chambers and at the judge's last known address. If the investigation does not disclose sufficient cause to warrant further proceedings, the judge may be so notified. The commission on judicial qualifications may make investigations by members of the commission or by special investigators employed by the commission; hold confidential hearings with the person filing the complaint or with the person's agents or attorneys; and hold confidential hearings with the judge involved in the complaint.

(c) If the commission on judicial qualification's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings and if the complainant subsequently issues any statement or statements of any kind for public dissemination relating to the activities or actions of the commission, the commission may answer that statement by reference to as much of the record of its proceedings or results of its investigation as it considers necessary.

SECTION 61. IC 33-33-71-52 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 52: (a) After the investigation is completed and if the commission on judicial qualifications concludes that formal proceedings should be instituted, the commission shall give written notice to the judge advising the judge of the institution of formal proceedings to inquire into the charges against the judge. These proceedings shall be entitled:

"BEFORE THE ST. JOSEPH COUNTY JUDICIAL
QUALIFICATIONS COMMISSION
Inquiry Concerning a Judge, No. _____."

(b) The notice must be issued in the name of the commission on judicial qualifications; specify in ordinary and concise language the charges against the judge and the alleged facts upon which the charges are based; and advise the judge of the judge's right to file a written answer to the charges against the judge within twenty (20) days after service of the notice upon the judge. A charge is not sufficient if it merely recites the general language of the original complaint. The charge must specify the facts relied upon to support a particular charge. A copy of the notice shall be filed in the office of the commission on judicial qualifications.

(c) The notice shall be made upon the judge by registered or certified mail addressed to the judge at the judge's chambers and the judge's last known address.

SECTION 62. IC 33-33-71-53 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 53: Within twenty (20) days after service of the notice of formal proceedings, the judge may file with the commission on judicial qualifications a signed original and one (+) copy of an

1 answer; and shall serve a copy on the counsel by mail:

2 SECTION 63. IC 33-33-71-54 IS REPEALED [EFFECTIVE UPON
3 PASSAGE]. Sec. 54: Upon filing an answer or upon the expiration of
4 the time for its filing, the commission on judicial qualifications shall
5 order a hearing to be held before it concerning the discipline,
6 retirement, or removal of the judge. The commission on judicial
7 qualifications shall set an approximate date, time, and place for a
8 hearing and shall give notice of the hearing by registered or certified
9 mail to the judge and to the counsel at least twenty (20) days before the
10 date set:

11 SECTION 64. IC 33-33-71-55 IS REPEALED [EFFECTIVE UPON
12 PASSAGE]. Sec. 55: (a) At the date, time, and place set for hearing,
13 the commission on judicial qualifications may proceed with the hearing
14 whether or not the judge has filed an answer or appears at the hearing:

15 (b) The failure of the judge to answer or to appear at the hearing,
16 standing alone, may not be taken as evidence of the truth of the facts
17 alleged to constitute grounds for censure, retirement, or removal. In any
18 proceeding for involuntary retirement for disability, the failure of the
19 judge to testify in the judge's own behalf or to submit to a medical
20 examination requested by the commission on judicial qualifications
21 may be considered, unless the failure to appear was due to
22 circumstances beyond the judge's control:

23 (c) The proceedings at the hearing shall be reported verbatim:

24 (d) At least four (4) members of the commission on judicial
25 qualifications must be present when the evidence is produced:

26 SECTION 65. IC 33-33-71-56 IS REPEALED [EFFECTIVE UPON
27 PASSAGE]. Sec. 56: At a hearing before the commission on judicial
28 qualifications the evidentiary rules of the courts of Indiana apply:

29 SECTION 66. IC 33-33-71-57 IS REPEALED [EFFECTIVE UPON
30 PASSAGE]. Sec. 57: (a) In formal proceedings involving the judge's
31 discipline, retirement, or removal, a judge has the right and reasonable
32 opportunity to defend against the charges by the introduction of
33 evidence, to be represented by counsel, and to examine and
34 cross-examine witnesses. The judge has the right to the issuance of
35 subpoenas for attendance of witnesses to testify or produce books,
36 papers, and other evidentiary matter:

37 (b) When a transcript of the testimony has been prepared at the
38 expense of the commission on judicial qualifications, a copy shall be
39 furnished without cost to the judge. The judge has the right, without
40 any order or approval, to have all or any part of the testimony in the
41 proceedings transcribed at the judge's expense:

42 (c) Except as otherwise provided in this chapter, whenever provision
43 is made for giving notice or sending any matter to the judge, that notice
44 or matter must be mailed by registered or certified mail to the judge at
45 the judge's office and residence unless the judge requests otherwise in
46 writing; and a copy is mailed to the judge's attorney of record:

(d) If the judge has been adjudged incapacitated under IC 29-3; the guardian may claim and exercise any right and privilege and make any defense for the judge with the same force and effect as if claimed, exercised, or made by the judge, if competent, and whenever these rules provide for serving or giving notice or sending any matter to the judge, a copy of the notice or matter also shall be served, given, or sent to the guardian.

SECTION 67. IC 33-33-71-58 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 58: At any time before determination of the issues, the commission on judicial qualifications may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. If an amendment is made, the judge shall be given reasonable time both to answer the amendment and to prepare and present the judge's defense against the matters charged thereby.

SECTION 68. IC 33-33-71-59 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 59: The commission on judicial qualifications may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order must set the date, time, and place of the hearing in St. Joseph County and must indicate the matters on which the evidence is to be taken. A copy of the order shall be sent by registered or certified mail to the judge and to the counsel at least ten (10) days before the date of the hearing.

SECTION 69. IC 33-33-71-60 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 60: If the commission on judicial qualifications finds good cause, it shall recommend to the supreme court the censure, retirement, or removal of the judge. The affirmative vote of four (4) members of the commission on judicial qualifications, including a majority of those who were present at the hearing or hearings when the evidence was produced, is required for a recommendation of discipline, retirement, or removal of a judge.

SECTION 70. IC 33-33-71-61 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 61: Upon making a determination recommending the censure, retirement, or removal of a judge, the commission on judicial qualifications shall promptly file a copy of the recommendation certified by the chairman or secretary of the commission, together with the transcript and findings and conclusions, with the clerk of the supreme court and shall promptly mail to the judge and to the counsel notice of the filing, together with a copy of the recommendation, finding, and conclusions.

SECTION 71. IC 33-33-71-62 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 62: (a) A petition to the supreme court to modify or reject the recommendation of the commission on judicial qualifications for censure, retirement, or removal of a judge may be filed by the judge

1 within thirty (30) days after the filing with the clerk of the supreme
 2 court of the certified copy of the commission's recommendation. The
 3 petition must:

- 4 (1) be verified;
- 5 (2) be based on the record;
- 6 (3) specify the grounds relied on; and
- 7 (4) be accompanied by petitioner's brief together with proof of
 8 service on the commission of two (2) copies, and on the counsel
 9 of one (1) copy, of the petition and the brief.

10 Within twenty (20) days after service of petitioner's brief the
 11 commission on judicial qualifications shall file a respondent's brief and
 12 serve a copy of the respondent's brief on the judge. Within twenty (20)
 13 days after service of the respondent's brief, the petitioner may file a
 14 reply brief; two (2) copies of which shall be served on the commission
 15 on judicial qualifications and one (1) copy shall be served on the
 16 counsel.

17 (b) Failure to file a petition within the time provided is considered
 18 a consent to the determination on the merits based upon the record filed
 19 by the commission on judicial qualifications.

20 (c) To the extent necessary to implement this section and if not
 21 inconsistent with this section, the Indiana Rules of Appellate Procedure
 22 are applicable to reviews by the supreme court of commission on
 23 judicial qualifications proceedings.

24 SECTION 72. IC 33-33-71-63 IS REPEALED [EFFECTIVE UPON
 25 PASSAGE]. Sec. 63: The commission on judicial qualifications has
 26 jurisdiction and powers necessary to conduct the proper and speedy
 27 disposition of any investigation or hearing, including the power to
 28 compel the attendance of witnesses; to take or cause to be taken the
 29 deposition of witnesses; and to order the production of books, records,
 30 or other documentary evidence. Any member of the commission on
 31 judicial qualifications may administer oaths and affirmations to
 32 witnesses in any matter within the jurisdiction of the commission.

33 SECTION 73. IC 33-33-71-64 IS REPEALED [EFFECTIVE UPON
 34 PASSAGE]. Sec. 64: Subpoenas for the attendance of witnesses and
 35 the production of documentary evidence between the commission on
 36 judicial qualifications or for discovery shall be issued by the chairman
 37 of the commission and shall be served in the manner provided by law
 38 for the service of process.

39 SECTION 74. IC 33-33-71-65 IS REPEALED [EFFECTIVE UPON
 40 PASSAGE]. Sec. 65: If in any proceeding before the commission on
 41 judicial qualifications, any witness fails or refuses to attend upon
 42 subpoena issued by the commission or any of the commission's
 43 representatives, or appearing, refuses to testify or refuses to produce
 44 any books and papers the production of which is called for by the
 45 subpoena, the attendance of any witness and the giving of the witness's
 46 testimony and the production of the books and papers required shall be

1 enforced by the St. Joseph circuit court.

2 SECTION 75. IC 33-33-71-66 IS REPEALED [EFFECTIVE UPON
3 PASSAGE]. Sec. 66: All papers and pleadings filed with the chairman
4 of the commission on judicial qualifications at the chairman's office
5 shall be considered filed with the commission.

6 SECTION 76. IC 33-33-71-67 IS REPEALED [EFFECTIVE UPON
7 PASSAGE]. Sec. 67: (a) In all formal proceedings, discovery shall be
8 available to the commission on judicial qualifications and to the judge
9 in accordance with the Indiana Rules of Civil Procedure. Any motions
10 requesting court orders for discovery shall be made to the St. Joseph
11 circuit court.

12 (b) In all formal proceedings before the commission on judicial
13 qualifications, the counsel shall furnish to the judge not less than
14 twenty (20) days before any hearing the following:

15 (1) The names and addresses of all witnesses whose testimony the
16 counsel expects to offer at the hearing together with copies of all
17 written statements and transcripts of testimony of the witnesses in
18 the possession of the counsel or the commission that are relevant
19 to the subject matter of the hearing and that have not previously
20 been furnished the judge.

21 (2) Copies of all documentary evidence that the counsel expects
22 to offer in evidence at the hearing. The testimony of any witness,
23 except if offered in rebuttal or for impeachment, whose name and
24 address have not been furnished to the judge, and documentary
25 evidence, copies of which have not been furnished to the judge,
26 as provided in this subsection, are not admissible in evidence at
27 the hearing over the objection of the judge. After formal
28 proceedings have been instituted, the judge may request in writing
29 that the counsel furnish to the judge the names and addresses of
30 all witnesses then or thereafter known to the counsel who have
31 information that may be relevant to any charge against the judge
32 and to any defense of the judge with respect to the charge. The
33 counsel shall also furnish copies of such written statements,
34 transcripts of testimony, and documentary evidence as are then or
35 thereafter known to the counsel and are then or thereafter in the
36 possession of the counsel or the commission that are relevant to
37 any charges or defense and that have not previously been
38 furnished the judge. The counsel shall comply with a request
39 within ten (10) days after receipt of the request and thereafter
40 within ten (10) days after any information or evidence becomes
41 known to the counsel.

42 (c) During the course of an investigation by the commission on
43 judicial qualifications, the judge whose conduct is being investigated
44 may demand in writing that the commission either institute formal
45 proceedings against the judge or enter a formal finding that there is not
46 probable cause to believe that the judge is guilty of any misconduct.

The commission on judicial qualifications shall within sixty (60) days after the judge's demand comply with the demand. A copy of the demand must be filed with the supreme court and is a matter of public record. If, after a demand, the commission on judicial qualifications finds that there is not probable cause, that finding must be filed with the supreme court and is a matter of public record.

SECTION 77. IC 33-33-71-68 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 68: (a) Whenever a judge of a St. Joseph County court is retired by the supreme court under this chapter and on the grounds set forth in sections 44 and 46 of this chapter, the judge is considered to have retired voluntarily. In these situations, this chapter may not be construed to authorize any encroachment upon or impairment of any rights of the judge or the judge's surviving spouse under any constitutional or statutory retirement program.

(b) A judge of a St. Joseph County court who is removed from office by the supreme court on those grounds set forth in sections 44 and 46 of this chapter, is ineligible for judicial office and, pending further order of the supreme court, shall be suspended from the practice of law in Indiana.

SECTION 78. IC 33-33-79-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) There is established a court of record to be known as the superior court of Tippecanoe County.

(b) The superior court has one (1) judge, who shall hold office for six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. The judge shall be elected every six (6) years at the general election.

SECTION 79. IC 33-33-79.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. There is created a court of record to be known as the Superior Court No. 2 of Tippecanoe County. The court has one (1) judge, who holds office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. The judge shall be elected every six (6) years at the general election.

SECTION 80. IC 33-33-79.3-3, AS AMENDED BY P.L.201-2011, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Tippecanoe County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must:

- (1) be a resident of Tippecanoe County; and
- (2) be admitted to the bar of Indiana.

SECTION 81. IC 33-33-79.4-3, AS AMENDED BY P.L.201-2011, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Tippecanoe superior court No. 4, No. 5,

and No. 6 each has one (1) judge. ~~who shall be elected at the general election every six (6) years in Tippecanoe County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.~~

(b) To be eligible to hold office as judge of the court, a person must be:

- (1) a resident of Tippecanoe County; and
- (2) admitted to the bar of Indiana.

SECTION 82. IC 33-33-82-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) There is established a superior court in Vanderburgh County that consists of seven (7) judges who ~~hold office for six (6) years and until their successors are elected and qualified. shall be selected as provided in IC 33-29-7.~~

(b) **IC 33-29-7-3 applies to the term of each superior court judge.**

(c) **To be eligible for selection as a judge of the court, a candidate must be:**

- (1) domiciled in Vanderburgh County;**
- (2) a citizen of the United States; and**
- (3) admitted to the practice of law in Indiana.**

SECTION 83. IC 33-33-82-31, AS AMENDED BY P.L.169-2015, SECTION 168, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) The judge of the Vanderburgh circuit court ~~and each of the seven (7) judges of the Vanderburgh superior court~~ shall be elected in a nonpartisan ~~elections~~ **election** every six (6) years.

(b) ~~Not later than December 31 of the year immediately preceding a year in which the office of judge of the Vanderburgh superior court will be on the ballot; the clerk of the circuit court shall file with the election division a list containing the name and the court number assigned by the roster of judicial officers maintained by the Supreme Court of Indiana; Division of State Court Administration; for each judge of the Vanderburgh superior court.~~

(c) ~~(b)~~ During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for ~~any one (1) of the eight (8) judgeships affected by this chapter shall the office of circuit court judge must~~ file with the election division a declaration of candidacy adapted from the form prescribed under IC 3-8-2, signed by the candidate. ~~and designating by court number the judgeship the candidate seeks. Any petition without the designation shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2).~~ To be eligible for election, a candidate must be:

- (1) domiciled in the county of Vanderburgh;
- (2) a citizen of the United States; and

(3) admitted to the practice of law in Indiana.

(c) If an individual who files a declaration under subsection ~~(c)~~ **(b)** ceases to be a candidate after the final date for filing a declaration under subsection ~~(c)~~; **(b)**, the election division may accept the filing of additional declarations of candidacy for that judgeship not later than noon August 1.

(d) All candidates for ~~each respective judgeship~~ **judge of the circuit court** shall be listed on the general election ballot in the form prescribed by IC 3-11, without party designation. The candidate receiving the highest number of votes ~~for each judgeship~~ shall be elected to ~~that~~ office.

(e) IC 3, where not inconsistent with this chapter, applies to elections under this chapter.

SECTION 84. IC 33-33-84-3, AS AMENDED BY P.L.246-2005, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. There is established a court of record to be known as the Vigo superior court. The superior court has five (5) judges. ~~who shall hold their office for six (6) years and until their successors have been elected and qualified:~~

SECTION 85. IC 33-33-87-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. There shall be one (1) judge of the Warrick superior court No. 1 and one (1) judge of the Warrick superior court No. 2. ~~who shall hold office for six (6) years, beginning on the first day of January after a judge's election and until the judge's successor is elected and qualified:~~

SECTION 86. IC 33-33-87-12 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 12. The voters of Warrick County shall elect every six (6) years a judge for the Warrick superior court No. 1 and a judge for the Warrick superior court No. 2 at the general election:~~

SECTION 87. IC 33-33-89-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. There is established a court of record to be known as the Wayne superior court No. 1. The court consists of one (1) judge. ~~who shall hold office for six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor has been elected and qualified. The judge shall be elected every six (6) years at the general election:~~

SECTION 88. IC 33-33-89.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. There is established a court of record to be known as the Wayne superior court No. 2. The court has one (1) judge. ~~who shall hold office for a term of six (6) years, beginning on the first day of January after the judge's election and until the judge's successor is elected and qualified. The judge of the court shall be elected every six (6) years at the general election:~~

SECTION 89. IC 33-33-89.3-3, AS AMENDED BY P.L.201-2011, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 UPON PASSAGE]: Sec. 3. (a) The court has one (1) judge. ~~who shall~~
 2 ~~be elected at the general election every six (6) years in Wayne County.~~
 3 ~~The judge's term begins January 1 following the judge's election and~~
 4 ~~ends December 31 following the election of the judge's successor.~~

5 (b) To be eligible to hold office as judge of the court, a person must:

6 (1) be a resident of Wayne County;

7 (2) be admitted to the bar of Indiana; and

8 (3) have practiced law at least five (5) years."

9 Page 5, delete lines 32 through 42.

10 Delete pages 6 through 14.

11 Page 15, delete lines 1 through 18, begin a new paragraph, and
 12 insert:

13 "SECTION 91. IC 34-46-2-30.4 IS REPEALED [EFFECTIVE
 14 UPON PASSAGE]. ~~Sec. 30.4. IC 33-33-71-49 (Concerning papers~~
 15 ~~filed and testimony before the commission on judicial qualifications for~~
 16 ~~St. Joseph Superior Court).~~

17 SECTION 92. IC 35-52-3-7 IS REPEALED [EFFECTIVE UPON
 18 PASSAGE]. ~~Sec. 7. IC 3-14-1-10.5 defines a crime concerning~~
 19 ~~elections."~~

20 Renumber all SECTIONS consecutively.

(Reference is to HB 1036 as printed January 27, 2017.)

Representative Bartlett