

## **IC 3-13-6**

### **Chapter 6. Vacancies in County Judicial and Circuit Offices**

#### **IC 3-13-6-1**

##### **Certification of vacancy to governor; manner of filling vacancy**

Sec. 1. (a) As used in this section, "judge" refers to a judge of a circuit, superior, or probate court.

(b) If a judge wants to resign from office, the judge must resign as provided in IC 5-8-3.5.

(c) A vacancy that occurs because of the death of a judge may be certified to the governor under IC 5-8-6.

(d) A vacancy that occurs, other than by resignation or death of a judge, shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(e) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6.

(f) The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election for the office, and qualified;

whichever occurs first.

(g) Except as provided in this subsection, the office of judge of the circuit court shall be elected at the next general election following the date any vacancy occurred. If a vacancy occurs in the office of judge of the circuit court after noon seventy-four (74) days before a general election, the office shall be elected at the second general election following the date any vacancy occurred.

(h) The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(i) A vacancy in the office of judge of a superior or probate court shall be filled by the governor subject to the following:

(1) IC 33-33-2-39.

(2) IC 33-33-2-43.

(3) IC 33-33-45-38.

(4) IC 33-33-71-40.

However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6. The person who is appointed holds office for the remainder of the unexpired term.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.434; P.L.5-1989, SEC.67; P.L.334-1989(ss), SEC.2; P.L.16-1995, SEC.2; P.L.18-1995, SEC.1; P.L.98-2004, SEC.42; P.L.119-2005, SEC.4; P.L.201-2011, SEC.6; P.L.194-2013, SEC.91.*

### **IC 3-13-6-2**

#### **Office of prosecuting attorney**

Sec. 2. (a) A vacancy that occurs, other than by resignation, in the office of prosecuting attorney shall be certified to the governor by the circuit court clerk of the county in which the prosecuting attorney resided.

(b) A vacancy in the office of prosecuting attorney that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11.

(c) A vacancy in the office of prosecuting attorney not covered by subsection (b) shall be filled by the governor.

(d) The person appointed or selected holds office for the remainder of the unexpired term and until a successor is elected and qualified.

(e) If a vacancy in the office of the prosecuting attorney occurs under subsection (b), the chief deputy prosecuting attorney appointed under IC 33-39-6-2 shall be the acting prosecuting attorney until the vacancy is filled by the caucus under IC 3-13-11.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.435; P.L.7-1994, SEC.1; P.L.19-1995, SEC.1; P.L.98-2004, SEC.43.*

### **IC 3-13-6-3**

#### **Office of clerk of circuit court**

Sec. 3. (a) A vacancy in the office of clerk of the circuit court that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11.

(b) A vacancy that occurs in the office of clerk of the circuit court:

- (1) other than by resignation; and
- (2) that is not covered by subsection (a);

shall be certified to the governor by the judge of the circuit court.

(c) A vacancy in the office of clerk of the circuit court not covered by subsection (a) shall be filled by the governor. The person who is appointed holds office for the remainder of the unexpired term and until a successor is elected and qualified.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.436; P.L.14-1988, SEC.1.*