

## **IC 33-38-11**

### **Chapter 11. Temporary Judges**

#### **IC 33-38-11-1**

##### **Appointment; residence; term; juvenile law judge**

Sec. 1. (a) The judge of a circuit or superior court may appoint temporary judges. Each temporary judge must be:

- (1) a competent attorney admitted to the practice of law in Indiana; and
- (2) a resident of the judicial district of the court after the temporary judge's appointment.

The temporary judge's appointment must be in writing. The temporary judge continues in office until removed by the judge.

(b) A temporary juvenile law judge may be appointed under this subsection for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40. The appointment shall be made under an agreement between at least two (2) judges of courts located:

- (1) in the same county; or
- (2) in counties that are adjacent to each other.

(c) An agreement under subsection (b) must:

- (1) be filed with the circuit court clerk of each county in which a court subject to the agreement is located;
- (2) specify the duration of the agreement, which may not exceed one (1) year; and
- (3) permit a judge to end the participation of a court in the agreement.

*As added by P.L.98-2004, SEC.17. Amended by P.L.201-2011, SEC.105.*

#### **IC 33-38-11-2**

##### **Powers; administration of oaths; certifying affidavits and depositions; subpoenas; preliminary hearings; warrants**

Sec. 2. A temporary judge:

- (1) may:
  - (A) administer all oaths and affirmations required by law;
  - (B) take and certify affidavits and depositions; and
  - (C) issue subpoenas for witnesses whose testimony is to be taken before the temporary judge;
- (2) has the same power to compel the attendance of witnesses and to punish contempts as the judge of the court;
- (3) may:
  - (A) conduct preliminary hearings in criminal matters;
  - (B) issue search warrants and arrest warrants; and
  - (C) fix bond; and
- (4) may enforce court rules.

*As added by P.L.98-2004, SEC.17.*

#### **IC 33-38-11-3**

**Powers; hearing evidence; findings**

Sec. 3. (a) Except as provided in subsection (b), a temporary judge may hear evidence upon and report findings to the judge of the court for each probate, civil, criminal, and other case referred to the temporary judge by that judge. The temporary judge may:

- (1) make the final judgment in these cases; and
- (2) in a criminal case tried by the court, conduct all sentencing hearings in the case.

(b) If a defendant is being tried for a felony, the judge of the court shall conduct all sentencing hearings and make the final judgment in the case.

*As added by P.L.98-2004, SEC.17.*

**IC 33-38-11-4**

**Powers; civil jury trial**

Sec. 4. A temporary judge may:

- (1) conduct a jury trial;
- (2) receive the verdict of the jury; and
- (3) make and enter the judgment on the jury verdict;

in a civil case referred to the temporary judge by the judge of the court.

*As added by P.L.98-2004, SEC.17.*

**IC 33-38-11-5**

**Powers; criminal jury trial**

Sec. 5. In a criminal jury trial referred to a temporary judge by the judge of the court, the temporary judge may conduct the trial, receive the verdict of the jury, conduct all sentencing hearings, and make all final judgments. However, if the criminal case is a case in which the defendant is being tried for a felony, the judge of the court shall:

- (1) make the final judgment in the case; and
- (2) conduct all sentencing hearings in the case.

*As added by P.L.98-2004, SEC.17.*

**IC 33-38-11-6**

**Limitation of rights and powers**

Sec. 6. The judge of the court may:

- (1) limit any of the rights or powers of the temporary judge specified in this chapter; and
- (2) specifically determine the duties of the temporary judge within the limits established in this chapter.

*As added by P.L.98-2004, SEC.17.*

**IC 33-38-11-7**

**Service as judge pro tempore or special judge**

Sec. 7. A temporary judge may serve as a judge pro tempore or a special judge of the court but is not entitled to additional compensation for that service.

*As added by P.L.98-2004, SEC.17.*

**IC 33-38-11-8****Judicial mandate**

Sec. 8. A temporary judge has no power of judicial mandate.  
*As added by P.L.98-2004, SEC.17.*

**IC 33-38-11-9****Compensation**

Sec. 9. A temporary judge is entitled to twenty-five dollars (\$25), paid by the county, for each day of service as a temporary judge.  
*As added by P.L.98-2004, SEC.17.*

**IC 33-38-11-10****Limitation on service; exceptions**

Sec. 10. Except for:

- (1) a temporary juvenile law judge appointed under section 1(b) of this chapter for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40; or
- (2) a temporary judge appointed by a court located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000);

a temporary judge appointed under this chapter may not serve for more than sixty (60) calendar days in all during a calendar year.

*As added by P.L.98-2004, SEC.17. Amended by P.L.13-2013, SEC.81.*

**IC 33-38-11-11****Scope of service**

Sec. 11. A temporary judge appointed under this chapter may serve even though the judge of the court is present and presiding in the court.

*As added by P.L.98-2004, SEC.17.*