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**CHAPTER 23**  
**SENIOR JUDGES**  
**Administrative Rule 5(B)**

**CONTACT:**

**Jim Maguire**

jmaguire@courts.state.in.us

Direct: 317-233-3018

**Tom Carusillo**

tcarusil@courts.state.in.us

Direct: 317-233-2779

30 S. Meridian St., Suite 500

Indianapolis, IN 46204

Main: 317-232-2542

Fax: 317-233-6586

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In 1989, the legislature authorized the creation of the Senior Judge program, allowing Indiana courts to use the services of retired judges to supplement existing judicial resources. [IC 33-23-3-1](#). A Court may use a senior judge as a replacement when the regular judge is unavailable, for example when the regular judge is attending a conference; as a complement to the sitting judges, as when the regular judge is hearing a trial, working on opinions or fulfilling administrative duties, such as completion of Quarterly Case Status Reports; or to oversee the processing of certain types of cases or court programs.

The Indiana Supreme Court is responsible for promulgating rules to further define the certification and appointment process for senior judges. [IC 33-24-3-7](#). In 2003 the Supreme Court promulgated [Administrative Rule 5](#), setting the parameters for the certification and use of senior judges.

A former judge must first apply to the Judicial Nominating Commission for [certification to serve as a Senior Judge](#). The applicant must have served as an elected or appointed judge for at least four (4) years and one of those service years must have occurred within five (5) years of the application. The Nominating Commission reviews the qualifications and makes a determination that the individual is fit to serve. Each applying former judge must agree that he/she is fit to serve as a senior judge; will serve at least thirty (30) days as senior judge in the year of appointment; will comply with the Code of Judicial Conduct; will not serve as an elected or appointed government official outside of the judicial branch of government; will serve where assigned; will continue to serve in all special judge cases where serving at the time of leaving office; and, will not practice law in the courts where appointed or assigned as senior judge. If all conditions are met, the Nominating Commission will certify to the Supreme Court that the applicant has met the criteria for serving as a Senior Judge and recommend approval to serve. Each year senior judges must also apply for [recertification](#).

Sitting judges on the Court of Appeals and Trial Courts must make a [request for the appointment](#) of a senior judge to serve in their court during the coming calendar year in order for that senior judge to be eligible to serve. These requests must be renewed each year. The Supreme Court, by Order, assigns senior judges to each requesting court. Every Trial Court receives a minimum of ten senior judge days each year. Administrative Rule 5(B)(2). The Supreme Court also assigns a specific number of

additional [Senior Judge Service Days](#) for courts to use during the calendar year, if they have high weighted caseload figures.

A senior judge who serves in a court must submit a [statement of service](#) to the court. This permits the court to track the usage of senior judge days allocated to the court and helps the court meet its obligation to not exceed the number of allocated senior judge days.

In order to be paid for senior judge service, a senior judge must submit a [claim for service](#) to State Court Administration. Administrative Rule 5(B)(7) requires that claims must be filed no later than thirty (30) days from the date of service.

Typically, senior judges serve a full day. However, on some occasions less than a full day is served. In these situations, the senior judge can file a [request for permission to combine partial days](#). This will permit partial days of service to be accumulated into full day increments.

The [payment schedule](#) published by the Executive Director of State Court Administration sets forth the payments to which senior judges are entitled when serving as special judges and mediators.

Information regarding [Senior Judge Service](#) can be found on the web. This site provides data regarding the senior judges assigned to each Trial Court, the number of days a senior judge has served, the number of senior judge days allocated to a Trial Court, and the number of senior judge days a Trial Court has used.

In calendar year 2009, Indiana has 108 former judges certified to serve as Senior Judge. In 2008 there were 81 Senior Judges who received payment for service in trial courts, and 6 Senior Judges who received payment for service in the Appellate Courts. Senior judges served a total of 3,636 days during 2008 (the last year of complete annual information). The service of Senior Judges used by Indiana trial courts is equivalent to the use of twenty (20.29) full time trial court judges, based on the criteria used in the Indiana weighted caseload analysis. The cost to the state in salary and benefits for an additional 20.29 trial court judges would have been \$2,745,379 (\$135,307 for salary and benefits multiplied by 20.29 judges). The cost of using Senior Judges by our trial courts for 2008 was \$1,198,857. The savings to the state in utilizing the services of senior judges instead of adding an additional 20.29 trial court judges was \$1,546,522 (\$2,745,379 minus \$1,198,857).

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## **SENIOR JUDGES – FREQUENTLY ASKED QUESTIONS**

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tcarusil@courts.state.in.us

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### **Who May Serve As a Senior Judge?**

The ability to serve as a Senior Judge is a three step process. All steps must be completed before a Senior Judge is eligible to serve. First, a former judge with the requisite amount of experience who wishes to serve as a senior judge must be initially certified and annually recertified by the Indiana Judicial Nominating Commission. [IC 33-27-4-1](#). Second, a Trial Court must make a request for the Senior Judge to be assigned to the court. Finally, the Supreme Court must issue an Order appointing the Senior Judge to the requesting Trial Court.

### **How Do Senior Judges Get Certified?**

A former judge who wants to serve as a Senior Judge must file every an annual application with the Judicial Nominating Commission. The Commission must certify to the Supreme Court that the applicant has served as an elected or appointed judge for at least four (4) years and that at least one of those service years occurred within five (5) years of the application. For returning senior judge applicants, the four (4) years of service as an elected or appointed judge may be more than five (5) years prior to the application if he or she has served at least thirty (30) days as a senior judge during a calendar year within five (5) years of the application. (The Nominating Commission also may waive these criteria and certify a senior judge with less service, but only under exceptional circumstances.)

In addition to the judicial experience and timing criteria described above, the Nominating Commission must certify that a former judge is fit to serve as a Senior Judge, and:

1. Agrees to serve as a senior judge for at least thirty (30) days in the year of appointment and has not in any previous year of service failed to serve for at least thirty (30) days without good cause;
2. Agrees to comply with the Code of Judicial Conduct;

3. Agrees to not serve as an elected or appointed government official outside the judicial branch of government, except with Supreme Court approval;
4. Agrees to serve where assigned;
5. Agrees to continue to serve in all special judge cases in which the former judge was serving as a special judge at the time the former judge left office without receiving senior judge credit for such service; and,
6. Agrees not to practice law in the courts in which the senior judge is appointed or assigned as senior judge.

### **Where Can Senior Judges Serve?**

The Court of Appeals or a circuit, superior, county, tax or probate court may ask the Supreme Court to assign to their court a senior judge for the calendar year. The number of days that a court may use the assistance of a senior judge is based on caseload analysis. Courts with the highest caseloads will have unlimited use of senior judges. Regardless of caseload, however, every court may use a senior judge for at least 10 days during the calendar year.

### **What Authority Does A Senior Judge Have?**

A senior judge has the same jurisdiction as the presiding judge of the court where the judge is appointed to serve. This authority is limited to the days that a senior judge is serving in that court. In addition, a senior judge has jurisdiction to officiate at marriages at any time during the period of appointment. A senior judge also may retain jurisdiction in a pending case on the order of the presiding judge of the court [Administrative Rule 5(B)(4)].

Unlike judges pro tempore, who are empowered to act only in the absence of the regular judge, senior judges may serve concurrently with the other judicial officers of the court in which they are appointed.

### **What Is the Compensation for Senior Judges?**

Indiana Code [33-23-3-5](#), effective July 1, 2007, provides for senior judge per diem compensation at a rate of \$100 for each of the first thirty (30) days of service and up to \$250 for each day of service on day thirty-one (31) and thereafter. The Indiana Supreme Court provides the compensation rate for senior judge in Administrative Rule 5 and by Order adjusting the statutory rates when necessary. Senior Judges may receive compensation for no more than one hundred (100) days.

Due to fiscal constraints the Supreme Court has issued orders adjusting the senior judge compensation rate for calendar year 2008 and 2009. The per diem rate established for the past two years is \$100 for the first thirty (30) days; \$150 for service days thirty-one through seventy-four (74); and \$175 for service days seventy-five (75) through one hundred (100).

With the permission of the Director of the Indiana Supreme Court, Division of State Court Administration, a senior judge who serves in time increments shorter than a full day may accumulate and consolidate such service times into a day's credit.

Senior Judges who serve as special judges are paid according to a schedule for payment of special judges established by the Director of the Division of State Court Administration.

Senior Judges are not entitled to compensation for special judge service when the service is performed on the same day he or she serves as a senior judge.

Senior judges who serve more than 30 days in a year are entitled to state insurance benefits, including group health, life, dental and vision.

### **How Do Senior Judges Get Paid?**

The Division of State Court Administration is in charge of compensation for senior judges. A senior judge must file a claim for service with the Division of State Court Administration. The Division will then present the claim to the Auditor of State for payment. Claims for compensation must be made within 30 days of the date of service.

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