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Qualifying for health insurance premium discount
Avoiding *ex parte* communication with jurors
Trial court judges and their partners reached a remarkable milestone on April 8, 2019, with the certification of the 100th Indiana problem-solving court.

The notable accomplishment showcases the dedication of judges across the state who are committed to giving litigants a path toward success.
The Milestone

Indiana reached the 100 mark with the certification of a veterans’ treatment court in Pulaski County. Judge Crystal Kocher is proud to have their certification bring Indiana to 100 courts. She explained, “We received grant funding, training opportunities, and encouragement to bring a veterans’ treatment court to our county. It highlights the need and possibilities for rural communities around the state to provide comprehensive services.”

Problem-solving courts specialize in areas including drug, reentry, mental health, veterans, family recovery, and domestic violence. The certified courts seek to promote outcomes that benefit the litigants and their families, victims, and society.

Partnerships

Indiana Chief Justice Loretta Rush believes the collaboration of problem-solving courts make them unique. “The innovative approach requires pioneering judges to coordinate with numerous resources in their supportive communities to provide intensive services and frequent court appearances for oversight.”

Judge Kocher called the process a team effort in her county and beyond. “We have supportive prosecutors, public defenders, law enforcement, community members, judges, and others from the 99 problem-solving courts already certified.”

Making Headlines

News organizations across the state devoted airtime and ink to the story, including profiling judges and litigants who are part of these courts.

*The Republic* in Bartholomew County focused on the funding aspect of problem-solving courts. Judges in the county used the opportunity to talk about the grants they’ve received and the money they will continue to seek.

“Making sure these courts are available in all parts of the state is a vital resource to have available for all Hoosier families to begin to heal from the pains of addiction.”

—Judge Jon Cleary
Dearborn County
The Evening News and Tribune in southern Indiana identified the regional aspect of the courts noting, “Clark and Floyd counties have been leading the way in for nearly a decade” when it comes to problem-solving courts.

Readers of The Times of Northwest Indiana didn’t have to get past the headline, “Judges take on extra work to give offenders a second chance” to understand problem-solving courts. Eight judges quoted in the story relayed a common feeling: the efforts are worth it because the courts are effective.

Certification

The Indiana Office of Court Services (IOCS) certifies problem-solving courts to ensure that the specialty courts comply with IC 33-23-16, the Judicial Conference of Indiana Problem-Solving Court Rules, and applicable federal regulations. The voluntary certification process includes notification of intent, completing an application with required documentation, and a site visit to the jurisdiction to meet with the local team. Provisional certification is issued for 6 months and is followed by another site visit to review documentation, meet with team members, attend a court session, and conduct a participant focus group. Certification for up to 3 years may be awarded, according to Jamie Bergacs, who works as the IOCS Justice Services Assistant Administrator. Ms. Bergacs explained, “While the certification process is to review the problem-solving courts’ compliance with the applicable statutes and rules, the goal of the IOCS certification team is also to assist in implementing research-based policies and procedures to enhance the outcomes of problem-solving courts.”

Growth and Success

Dearborn County Judge Jon Cleary, who serves as the Problem-Solving Court Committee Chairperson, says the growth of the problem-solving courts means every judicial district has at least one problem-solving court. He explained, “Making sure these courts are available in all parts of the state is a vital resource to have available for all Hoosier families to begin to heal from the pains of addiction.”

The graduates of problem-solving courts are not just success stories in their own right; their success has a domino effect on their families and communities. Supreme Court Justice Christopher Goff led a Family Recovery Court when he was a trial court judge in Wabash County. He calls the graduation ceremony more than a successful completion of a difficult case. “It is the celebration of lives reclaimed and the anticipation of positive change for generations to come.”

More information about problem-solving courts, including a directory, can be found at courts.in.gov/iocs/2330.htm.
Judges of the 100 courts
As of April 8, there were 93 judicial officers working with the 100 certified problem-solving courts in 50 counties:

- Hon. Andrew Adams
- Hon. Heather L. Barajas
- Hon. Gail Z. Bardach
- Hon. Kelly S. Benjamin
- Mag. Natalie Bokota
- Hon. Lisa M. Bowen-Slaven
- Mag. Diana J. Burleson
- Hon. Stephanie S. Campbell
- Hon. Julie N. Cantrell
- Hon. Vicki L. Carmichael
- Hon. David J. Certo
- Mag. John M. Christ
- Hon. Joseph L. Claypool
- Hon. Jonathan N. Cleary
- Ref. Beverly K. Corn
- Hon. Kit C. Dean Crane
- Hon. Jonathan A. Dartt
- Hon. Mary Ellen Diekhoff
- Hon. Michael J. Drenth
- Hon. Douglas M. Fahl
- Hon. John M. Feick
- Hon. Paul A. Felix
- Hon. Thomas J. Felts
- Hon. Paul L. Freed
- Hon. Greta Stirling Friedman
- Hon. Lucy Goffinet
- Hon. Maria D. Granger
- Mag. Joni L. Grayson
- Hon. Lewis J. Gregory
- Hon. Frances C. Gull
- Hon. Steven C. Hagen
- Hon. Mary R. Harper
- Mag. Sherry A. Hartzler
- Hon. Mike J. Hensley
- Hon. Brian D. Hill
- Hon. Steven L. Hostetler
- Hon. William J. Hughes
- Hon. Ryan D. Johanningsmeier
- Hon. Amy M. Jones
- Hon. Mark A. Jones
- Mag. Samuel R. Keirns
- Hon. Dana J. Kenworthy
- Hon. David D. Kiely
- Mag. John D. Kitch III
- Hon. Michael J. Kocher
- Hon. Michael J. Kramer
- Hon. Peggy Quint Lohorn
- Hon. Gretchen S. Lund
- Mag. Jill R. Marcrum
- Ref. Erik J. May
- Hon. Robert R. McCallen III
- Hon. Mark R. McConnell
- Hon. Andrea K. McCord
- Hon. Larry W. Medlock
- Hon. William C. Menges Jr.
- Hon. Jane Woodward Miller
- Hon. Patrick R. Miller
- Mag. Heather M. Mollo
- Hon. Deidre L. Monroe
- Hon. Lynn Murray
- Hon. Jennifer E. Newton
- Hon. Brett J. Niemeier
- Ref. Nathan G. Nikirk
- Hon. Brant J. Parry
- Hon. Sean M. Persin
- Hon. John M. Plummer III
- Hon. Richard W. Poynter
- Hon. Charles F. Pratt
- Hon. Lori Thatcher Quillen
- Hon. Michael R. Rader
- Hon. Hunter J. Reece
- Hon. Michael W. Reed
- Hon. John T. Roach
- Hon. Jose D. Salinas
- Hon. Leslie C. Shively
- Hon. Angela Warner Sims
- Hon. R. Scott Sirk
- Hon. William G. Sleva
- Hon. Mark A. Smith
- Hon. Timothy P. Spahr
- Hon. Mark E. Spitzer
- Hon. Karen A. Springer
- Mag. Kathleen Ann Sullivan
- Hon. Samuel A. Swaim
- Hon. Jeffrey L. Thorne
- Hon. Jeffrey D. Todd
- Hon. Wayne S. Trockman
- Hon. Salvador Vasquez
- Mag. Kristina Weiberg
- Hon. J. Zach Winsett
- Hon. James D. Worton
- Hon. David M. Zent
A New Way to Wellness

Are you on track to meet the September 30, 2019, deadline to qualify for the premium discount on your health plan for 2020?

1. 4 coaching sessions
   Face-to-face OR over the phone. Sessions last approximately 30 minutes. Group sessions do not qualify.

2. Earn 9,000 hearts
   Reach Level 5 on the ActiveHealth Platform by participating in digital coaching, health education, and health goals.

3. 75 days of tracking
   Track 10,000 steps a day for at least 75 days of the quarter, for two of three quarters.

4. Exercise 3 days a week
   Track 45 minutes of physical activity three days a week, for at least 11 weeks of the quarter, for two out of three quarters.
Have you completed the health risk assessment or the biometric screening to earn up to $150 in electronic gift cards? Would you like to participate in monthly raffle drawings? These are just a few incentives for state employees and officials to participate in the new voluntary wellness program offered through the State of Indiana.

On January 1, 2019, the Go365 Wellness Program ended and a new wellness partner, ActiveHealth Management, was introduced. This change in partnership also brought about a change in criteria that employees and officials must meet if they wish to take advantage of the wellness incentives currently being offered. Since everyone has different wellness needs and goals, the new wellness programs, ActiveHealth and OurHealth, offer more personalized services as well as tools and resources that are designed to help all reach their personal health goals while maximizing their potential for living healthier, happier, and more productive lives.

Through ActiveHealth, employees, officials, and their spouses, who are enrolled in a medical plan sponsored by the State Personnel Department, must each complete one of the four listed activities (see page 6) by September 30, 2019, to qualify for the health care premium discount in 2020. Unlike prior programs, a covered spouse must also qualify this year for the employee or official to be eligible for the family premium discount for 2020.

State employees, officials, and their covered spouses can each earn a $50 electronic gift card by completing the health risk assessment, a survey about health, lifestyle, and habits that is used to make individual recommendations, and a $100 electronic gift card by completing the biometric screening. Biometric screenings are similar to a yearly wellness exam and require you to follow certain restrictions before receiving the screening.

Free state biometric screenings are scheduled at state work locations, or you can complete the screening at your doctor’s office or a participating Quest Diagnostics Patient Service Center. Go to: on.in.gov/94xwq for information on how to obtain the Provider Results form to take to your doctor or to schedule a biometric screening at a state location or at a Quest lab. Results for biometric screenings must be submitted by October 31, 2019, to be accepted.

Monthly webinars that last approximately 45 minutes and cover a wide range of topics are also offered through ActiveHealth. Registration is required, and there is an option to choose from three start times: 10 a.m., 12:30 p.m., or 4:30 p.m. For a list of upcoming webinars go to: on.in.gov/lgmmq.

The Wellness Challenge Program, through the OurHealth portal, is available to ALL active full and part-time employees and officials, regardless of their participation in the state’s health insurance plan. It offers opportunities to earn entry into a raffle drawing for prizes. Each month, 100 prizes are given away and 10 grand prizes will be given away at the end of the year. You can choose from various activities and challenge yourself or invite family and friends to a challenge.

For information on ActiveHealth, OurHealth, and other programs, visit: investinyourhealthindiana.com.

To speak with an ActiveHealth Management representative call (855) 202-4219.

Did you know? The state offers an Employee Assistance Program (EAP), which provides confidential counseling and referral services for life events, and LifeHealth Online, where you can get expert medical advice from an experienced and board-certified medical professional.
2019 Legislative Session HIGHLIGHTS

Administrative changes

Magistrates may enter final appealable orders. H.E.A. 1607, P.L. 266

Assets of the judges’ retirement system are exempt from levy, sale, garnishment, attachment, or other legal process. H.E.A. 1192, P.L. 203

A court may reduce some or all of the court costs owed by a person who performs community service by determining the number of hours of community service or volunteer work performed by the person, multiplying the number of hours worked by the Indiana minimum wage, and deducting that figure from the amount owed. Hours required to be performed under a plea agreement are excluded. H.E.A. 1087, P.L. 77

New causes of action

A qualified recipient for an organ transplant may bring suit for injunctive or equitable relief if discriminated against because of a handicap. S.E.A. 112, P.L. 2

A person depicted in an intimate image may sue a person who discloses the intimate image without consent. S.E.A. 192, P.L. 29

Civil fertility fraud. S.E.A. 174, P.L. 215

New immunities

Justified use of force against a person attempting to commit a forcible felony or cause unlawful serious bodily injury. H.E.A. 1284, P.L. 107, Effective April 26, 2019

Psychiatric crisis center, psychiatric inpatient unit, or psychiatric residential treatment provider that discloses an individualized mental health safety plan to certain licensed providers in good faith. S.E.A. 359, P.L. 225

Protection order for harassment. H.E.A. 1607, P.L. 266

Critical infrastructure facility trespass and critical infrastructure facility mischief. This carries both civil and criminal penalties. S.E.A. 471, P.L. 276

All bills are effective on July 1, 2019, unless otherwise noted.

For summaries of all new relevant laws, see the Legislative Update, indianacourts.us/legislative. You can also subscribe by entering your email address in the top right corner.

All bills that have been signed into law are available at: in.gov/gov/2019billwatch.htm.
Education providers that disclose education records of a student to protect the health or safety of students. H.E.A. 1398, P.L. 255

Licensed medical personnel obtaining a body fluid sample or retrieving contraband from the body cavity of an individual as part of a criminal investigation. S.E.A. 333, P.L. 224

**Changes to criminal offenses**

Numerous misdemeanors have been reduced to civil infractions for the first offense. S.E.A. 336, P.L. 32

Creates a Class A misdemeanor to distribute an intimate image of a person on the internet without that person’s permission. S.E.A. 243, P.L. 185

Vending machine vandalism and refusing to yield a party line are repealed. S.E.A. 336, P.L. 32

Creates a Level 5 felony for a person to sell, give, or in any other manner transfer ownership or possession of a machine gun to any person under 18 years of age; Level 4 felony if the person has a prior conviction for the offense; Level 3 felony if a person under 18 years of age uses the machine gun to commit murder. S.E.A. 119, P.L. 183

New terrorism related offenses. S.E.A. 240, P.L. 66

Expands the list of offenses that may be prosecuted before a victim reaches 31 years of age to include all offenses of child molesting, vicarious sexual gratification, child solicitation, child seduction, sexual misconduct with a minor, and incest. S.E.A. 551, P.L. 40

Domestic battery is a Level 6 felony if the person has a prior unrelated conviction for strangulation. S.E.A. 551, P.L. 40

Strangulation is a Level 5 felony if the person has a prior unrelated conviction for strangulation. S.E.A. 551, P.L. 40

Criminal confinement is a Level 4 felony if it results in moderate bodily injury to a person other than the confining person. S.E.A. 551, P.L. 40

Kidnapping is a Level 4 felony if it results in moderate bodily injury to a person other than the removing person. S.E.A. 551, P.L. 40

Amends certain age requirements and adds enhanced offenses to the offense of child seduction. S.E.A. 551, P.L. 40

A person at least 18 years of age who knowingly or intentionally performs or submits to sexual intercourse or other sexual conduct with a child less than 16 years of age or performs or submits to any fondling or touching with a child less than 16 years of age with the intent to arouse or to satisfy the sexual desires of either the child or the older person commits sexual misconduct with a minor. S.E.A. 551, P.L. 40

Domestic battery may be converted to a Class A misdemeanor if defendant has not been convicted of the same crime within the previous 15 years. S.E.A. 551, P.L. 40

Possessing or dealing in a substance that is a controlled substance analog is an offense of the same level as possession of or dealing in the controlled substance of which the substance is an analog. H.E.A. 1186, P.L. 80

A person commits interfering with law enforcement, a Class B misdemeanor, if, after being denied entry by a law enforcement officer, the person enters an area that is marked off with barrier tape or other physical barriers. It is enhanced to a Level 6 felony if the person uses a vehicle to commit the offense. H.E.A. 1114, P.L. 201

An employer may be reimbursed from a public servant’s public pension fund contributions and benefits if the public servant criminally exerts unauthorized control over public funds of the public servant’s employer. H.E.A. 1192, P.L. 203

**Changes to criminal procedure**

New procedure to file a supplemental expungement and expungement of protection orders that were dismissed or denied. S.E.A. 235, P.L. 219

New procedure for a court to issue an emergency ex parte order for a blood or body fluid specimen. S.E.A. 333, P.L. 224

Counties can agree to create a multicounty public defender’s office. S.E.A. 488, P.L. 69

Political subdivisions can enter into an agreement to create a regional holding facility. H.E.A. 1065, P.L. 239

Records held by the Department of Child Services cannot be disclosed to any person who requests the record if it is related to an ongoing police investigation or criminal prosecution. S.E.A. 551, P.L. 40, Effective April 15, 2019

CONTINUED ON NEXT PAGE
Adult victims of sex crimes and child victims of violent crimes shall be identified by means other than names or initials (such as “Victim 1”) in public court documents. **S.E.A. 551, P.L. 40**

If a child less than 16 years of age is summoned to testify as a witness to any hearing in any criminal matter, the child shall be allowed to have a comfort item or comfort animal while testifying. **S.E.A. 551, P.L. 40**

A lifetime sex or violent offender is banned from changing the offender’s name. **H.E.A. 1208, P.L. 244**

A law enforcement officer must obtain a warrant to use an unmanned aerial vehicle (UAV) over private property or to conduct a search of private property, unless the owner of the property consents or a warrant would not be required for a search not using a UAV. **H.E.A. 1358, P.L. 136**

Updates the Red Flag law process for seizure of firearms from dangerous individuals and allows the judicial finding of dangerous to be used to initiate temporary commitment proceedings. **H.E.A. 1651, P.L. 289, Effective May 6, 2019**

**Sentencing**

It is aggravating circumstance that a crime was committed because of certain perceived or actual characteristics of the victim. **S.E.A. 198, P.L. 5**

For controlled substance offenses, it is an enhancing circumstance if it occurs on the property of a penal facility or juvenile facility. **S.E.A. 198, P.L. 5**

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Allows a court to prohibit sexually violent predators from having contact with children, including their own, as a condition of probation. **S.E.A. 258, P.L. 220**

Allows a court to prohibit sexually violent predators from having contact with children, including their own, as a condition of probation. **S.E.A. 258, P.L. 220**

A new registration period may be imposed if a sex or violent offender fails to register or improperly registers as a sex or violent offender. **S.E.A. 551, P.L. 40**

A new registration period may be imposed if a sex or violent offender fails to register or improperly registers as a sex or violent offender. **S.E.A. 551, P.L. 40**

A mandatory condition of probation and parole that a person convicted of an animal abuse offense may not own, harbor, or train a companion animal. **S.E.A. 474, P.L. 37**

A mandatory condition of probation and parole that a person convicted of an animal abuse offense may not own, harbor, or train a companion animal. **S.E.A. 474, P.L. 37**

Allows certain individuals who commit an offense in a penal facility to be sentenced to the Department of Correction. **S.E.A. 519, P.L. 191**

Department of Correction may adopt emergency rules concerning the deprivation of earned good time credit for a person who is placed in a community corrections program. **H.E.A. 1080, P.L. 26, Effective April 10, 2019**

A court may find that a child is not a CHINS based on credible evidence presented by the child’s parent, guardian, or custodian that the parent, guardian, or custodian is financially unable to supply the child with necessary food, clothing, or shelter, and has not failed, refused, or demonstrated an inability to seek financial or other reasonable means to do so. **S.E.A. 1, P.L. 210; H.E.A. 1006, P.L. 198**

A court may commit a person convicted of a Level 6 felony to the Department of Correction if the person is a violent offender or the person has two prior unrelated felony convictions. These categories are added to the existing portion of the statute requiring the person’s earliest possible release date is more than 365 days after the date of sentencing. **H.E.A. 1078, P.L. 240**

Department of Child Services

A court shall determine that consent to adoption is not required from a parent if the parent is convicted of crimes in another state that are substantially similar to specified crimes in Indiana that waive consent. **S.E.A. 1, P.L. 210**

A foster parent, long term foster parent, or person who has been a foster parent of the child has a right to intervene in a CHINS proceeding or termination of parent-child relationship proceeding. **S.E.A. 1, P.L. 210**

A court may find that a child is not a CHINS based on credible evidence presented by the child's parent, guardian, or custodian that the parent, guardian, or custodian is financially unable to supply the child with necessary food, clothing, or shelter, and has not failed, refused, or demonstrated an inability to seek financial or other reasonable means to do so. **S.E.A. 1, P.L. 210; H.E.A. 1006, P.L. 198**

A court may commit a person convicted of a Level 6 felony to the Department of Correction if the person is a violent offender or the person has two prior unrelated felony convictions. These categories are added to the existing portion of the statute requiring the person’s earliest possible release date is more than 365 days after the date of sentencing. **H.E.A. 1078, P.L. 240**
DCS shall provide notice to the juvenile court of any voluntary service referral agreement entered into after an investigation by the DCS that a child is a child in need of services, but before petitioning the juvenile court for a dispositional decree or implementing a program of informal adjustment.  
**H.E.A. 1001, P.L. 108**

Amends the list of offenses that disqualify an individual from acting as an adoptive parent or accepting placement of a child to add additional nonwaivable offenses and provide for additional offenses that are nonwaivable only if the conviction for the offense occurred within the past five years.  
**H.E.A. 1198, P.L. 243**

A CHINS case plan must include a description and discussion of the services and treatment available to an incarcerated parent at the facility at which the parent is incarcerated and how the parent and child may be afforded visitation opportunities, unless visitation with the parent is not in the best interest of the child.  
**H.E.A. 1432, P.L. 258**

A motion to dismiss a petition to terminate a parent-child relationship may be filed if the parent is incarcerated or the parent's prior incarceration is a significant factor in the child having been under the supervision of DCS or a county probation department for at least 15 of the most recent 22 months, the parent maintains a meaningful role in the child's life, DCS has not documented a reason to conclude that it would otherwise be in the child's best interest to terminate the parent-child relationship, and the parent is not incarcerated due to conviction for certain crimes. The court may consider the length of time remaining in the incarcerated parent's sentence.  
**H.E.A. 1432, P.L. 258**

### Family Law

Changes certain procedures governing the relocation of a child in cases in which custody orders are issued following a determination of paternity and in cases heard under statutes governing custody and visitation.  
**S.E.A. 292, P.L. 186**

Authorizes a court to require a parent to submit to drug testing as a condition of exercising parenting time rights if the court finds that the parent has a history of unlawful drug use within the previous five years or there is a reasonable likelihood that the parent is currently using unlawful drugs.  
**S.E.A. 323, P.L. 223**

If a court grants parenting time to a person who has been convicted of child molesting or child exploitation within the previous five years, the court shall order that the parenting time must be supervised.  
**S.E.A. 323, P.L. 223**

Duty to support a child ceases when the child becomes 19 years of age unless the child is a full-time student in a secondary school and the parent or guardian files a required notice of the child's enrollment.  
**H.E.A. 1520, P.L. 263**

### Probate

Legacy trusts and quiet trusts are authorized, as well as various other changes to trust law.  
**S.E.A. 265, P.L. 221**

A person who files a petition for the appointment of a guardian for an incapacitated person or minor must inform the court what less restrictive alternatives were considered or implemented and, if less restrictive alternatives were not considered or implemented, the reason for the failure to consider or implement less restrictive alternatives. It also provides for the use of supported decision-making agreements for adults who need support and accommodations in making, communicating, and effectuating decisions.  
**S.E.A. 380, P.L. 68**

The issuance of a court order on any matter related to an unsupervised estate does not revoke the personal representative's authority to continue the administration of the estate as an unsupervised estate.  
**S.E.A. 518, P.L. 231**

### Traffic

Increases the penalties for school bus stop arm infractions, including license suspension.  
**S.E.A. 2, P.L. 144**

Increases penalties for traffic crimes and in many instances, makes it a separate offense for each person injured or killed.  
**S.E.A. 186, P.L. 184**

A temporary traffic amnesty program for unpaid traffic fines is established.  
**H.E.A. 1141, P.L. 202**

A court may waive part or all of a reinstatement fee for driving privileges.  
**H.B. 1506, P.L. 178**

A court may grant driving privileges to an individual whose driving privileges have been suspended for life for a specified period and subject to certain conditions.  
**H.B. 1506, P.L. 178**
Judges who preside over impaired driving cases quickly learn that the most common number of beers/drinks consumed by drunk driving defendants is two. Even though blood alcohol concentration (BAC) results may range from .08% to .38%, numerous defendants claim to have consumed two beers, whether defending against or admitting to the charge.

Although reasons for the two beers assertion are less than certain, one explanation may be that it permits the person to acknowledge conduct but minimize the criminal nature of the activity. Indicative of the attitude that drunk driving isn’t really criminal conduct, claiming two beers is another way to claim that it isn’t illegal to drink and drive, it is only illegal to drink TOO MUCH and drive—that is, falling down, throwing-up drunk.

In spite of the refusal of some to recognize the dangers and criminality of impaired driving, efforts since the 1970s to combat the issue have been met with some success. The Foundation for Advancing Alcohol Responsibility (responsibility.org) reports that fatalities in drunk driving crashes have fallen by 48% since 1982.

The picture is improving, but almost 30 people still die every day in this country in drunk driving crashes: one fatality every 48 minutes.

Indiana is not immune from the carnage on the highways; in 2017 there were 220 alcohol impaired driving deaths and 914 traffic fatalities. For context, the Centers for Disease Control and Prevention report that in 2017, there were 456 murders in Indiana. With the rate of traffic fatalities twice that of the murder rate, how is it that risk-taking behaviors on the highways remain acceptable or are minimized?
**Effects of Alcohol**

Because alcohol-impaired driving has been a public safety issue for decades, extensive research has been conducted on the effects of alcohol on a person's ability to drive. There is a plethora of data demonstrating a direct correlation between BAC and impairment: the higher the BAC, the greater the impairment.

Even a small amount of alcohol has an impact on driving ability, although impairment is sufficiently pronounced at a BAC of .08%. All states have enacted laws that make it illegal to drive with a BAC of .08% or more. While the .08% BAC per se offense precludes the argument about whether someone is impaired at .08% BAC, an unintended consequence of such laws is that some now argue that any BAC below .08% is a passing score. IC 9-13-2-151, which provides that a BAC from .05% to .08% is relevant evidence of intoxication, is usually ignored.

With a BAC of .05% an individual will have reduced coordination, difficulty steering, and a reduced response to emergency driving situations. Studies have shown that a person with a BAC of .05% is twice as likely to be in a crash. Some advocacy groups and traffic safety entities, such as the National Transportation Safety Board, support lowering BAC limits from .08% to .05%. Utah became the first state to adopt the BAC limit of .05%, effective January 1, 2019.

**Public Awareness**

A variety of risk-taking behaviors including speeding, distracted driving, drugged driving, drowsy driving, and failing to wear seat belts are responsible for traffic fatalities. But drunk driving remains responsible for a higher percentage of traffic crashes in spite of persistent efforts to address the problem. The AAA Foundation for Public Safety’s Traffic Safety Culture Index reports that the public is generally aware of the seriousness of drunk driving as 74.4% of those surveyed indicated driving after drinking is completely unacceptable; 19.3% found it somewhat unacceptable; and only 5.8% considered driving after drinking alcohol to be acceptable. However, among those who reported consuming alcohol, 20.7% reported that within the past year, they had driven when they thought they had consumed too much alcohol to safely drive. As with many social ills, some are willing to hold others to a behavioral standard different than the standard for themselves. That is, drunk driving is completely unacceptable … when others do it.

**Proper Adjudication and Evidence-Based Sentencing**

Nothing in this column is to suggest that all persons charged with drunk driving are guilty, or that impaired driving defendants are not entitled to due process. Indeed, regardless of the fatalities, injuries, and social costs caused by impaired drivers, judges must afford defendants all procedural safeguards and legal protections. But criminal justice system stakeholders, including judges, also must not minimize the seriousness of impaired driving, and it is incumbent on the criminal justice system to properly adjudicate impaired driving cases and implement evidence-based sentencing options that reduce recidivism and enhance public safety. Some of those evidence-based sentencing practices will be addressed in upcoming columns.
On Thursday, April 18, the Indiana Supreme Court heard an oral argument in Wabash County rather than in the Supreme Court Courtroom in Indianapolis. The Court schedules arguments twice a year outside the capital to provide students, press, and public in other areas of the state an opportunity to see the work of the Court and to teach students about the judicial process.

The Court heard argument in a criminal case addressing the Fifth Amendment privilege against self-incrimination, Katelin Seo v. State of Indiana, in the Honeywell Center in Wabash, Indiana. Justice Christopher Goff, the Court’s newest member, is originally from Wabash County.

Ford Theater was filled with over 900 attorneys, local judges, and students from 20 schools and community organizations including:

- Caston Jr./Sr. High School
- Christian Life Academy
- Columbia City High School
- Emmanuel Christian School
- Faith Christian Co-op
- Fishers High School
- Heartland Career Center
- Huntington Classical Conversations Community
- Huntington North High School
- Manchester Jr./Sr. High School
- Northfield Jr./Sr. High School
- North Miami Middle/High School
- Pierceton Woods Academy
- Southwood Elementary School
- Southwood Jr./Sr. High School
- The Arc Wabash County
- Tippecanoe Valley High School
- Wabash High School
- Wabash Middle School
- White’s Jr./Sr. High School

Following the argument, the Court answered questions from the audience providing students and community members an opportunity to develop a deeper understanding of the day-to-day operations and overall role of the Court, as well as the way cases move through the judicial system.
The State Office of GAL/CASA and the Legislative Committee of the GAL/CASA Advisory Commission held CASA Day at the State House on March 19, 2019, to share information with legislators about the importance of best-interest advocacy for children. A breakfast for legislators was provided outside of the Supreme Court chambers and included special guest Supreme Court Justice Steven David. Over fifty legislators stopped by to talk to GAL/CASA program directors from around the state about the advocacy efforts of GAL/CASA volunteers in child abuse and neglect cases.

After the breakfast meeting, program directors and volunteers assembled at the government center to hear advice from an advocate about talking with legislators. State GAL/CASA Director Leslie Dunn also spoke to the group about key legislative issues impacting children and the role that a GAL/CASA plays in advocating for the best interests of children.

More than 450 volunteers from across the state wearing blue CASA t-shirts filled the north atrium of the State House carrying banners and chanting, “We are the voice of the child.” Indiana Chief Justice Loretta Rush opened the rally by thanking CASA volunteers for advocating on behalf of more than 26,000 abused and neglected children in 2018. She also emphasized the importance of the work of GAL/CASA volunteers in the judicial process.

Senate President pro tem Rodric Bray also thanked the volunteers for their invaluable work and shared information about the legislative session. House Representative Wendy McNamara, the chair-woman of the Child Services Oversight Committee, a committee of Indiana’s Commission on the Improvement of the Status of Children, spoke about the role of her committee in improving the child welfare system.

CONTINUED ON PAGE 19
This is the forty-ninth of our Court Times articles that highlight a member of the Indiana Judiciary.

LaGrange Superior Court Judge Lisa Bowen-Slaven graduated from Purdue University in December of 1989 and obtained a law degree from Valparaiso University School of Law in 1993. Following law school, she practiced in Tippecanoe County as a part-time Deputy Public Defender and in private practice in the Law Office of Marcel Katz until April of 1997.

She married Steve Slaven in December of 1994 and moved back to LaGrange County after starting their family. She worked for the Fort Wayne law firm of Beers Mallers Backs & Salin from 1997 through 2006, then branched out to her own solo general practice in LaGrange County until her election as Judge of LaGrange Superior Court in 2014.

Her husband has worked as a manager for a retail propane distributor for 22 years. They are the proud parents of two children: Mitchell, age 23, and Mason, age 19.

What was your childhood like?

I was born in a suburb of Seattle, Washington and then lived for a few years in Miami, Florida. My father was an aeronautical engineer and worked for Boeing and then Eastern Airlines, which explains my early childhood outside of Indiana. My mother was a teacher and both of my parents grew up in Shipshewana, Indiana. My mother decided that our family was moving back to Shipshewana in the early 70’s.

I have an older brother and an older sister. I enjoyed a wonderful childhood growing up on Shipshewana Lake and all the freedoms that were common in the 70’s. If I wasn’t swimming or boating on the lake with my friends, then I was playing sports, riding bikes, or going to piano lessons. I also had a newspaper bicycle route around the lake for most of my childhood. I attended Westview High School and was active in sports.

What prompted you to study law?

I started out in the engineering school at Purdue University, but I decided that it wasn’t the career for me. My sophomore year, I took a business law class and decided that law school may be for me. After receiving degrees in Technical Graphics and Supervision Technology from Purdue, I attended Valparaiso School of Law.

What is the most challenging and most rewarding aspect of being a judge?

When I first took the bench in January 2015, the most challenging aspect for me was scheduling cases and tackling the backlog. Today, I would say that the increasing number of self-represented litigants and time-consuming administrative matters are my biggest challenges.

The most rewarding part of being a judge is seeing the appreciation of litigants for being treated with respect and receiving thoughtful consideration, regardless of the outcome. It’s also rewarding to watch the Drug Court participants overcome their addiction and blossom into their former selves.
What profession would you choose outside of the law?
If money were no object, I would own and operate a large ranch out west, preferably Montana (i.e., Ted Turner or Kevin Costner style ranch). It’s my ongoing motivation for playing Powerball.

Do you have any hobbies or favorite leisure activities?
I enjoy hanging out with our rescue dogs at home. We also have chickens and goats. My oldest son and I have a Boer goat business. We used to have horses and numerous other 4-H animals, but we’ve whittled it down to chickens and goats since our kids went away to college.

In the summer, you can find me outside working on landscaping projects. In the winter, I typically have one room of our house torn apart and in the process of a DIY remodel.
I’ve also always enjoyed working out and became more serious about lifting weights approximately five years ago. Working out and lifting at the gym with my sons is my favorite activity.

Who are the people you most admire and why?
The most influential person in my life was my grandmother, Elizabeth “Betty” Smith. She grew up during the Depression and went on to become a successful businesswoman. She was a strong woman who always encouraged me to step out of my comfort zone and pursue new adventures.
After attending the Judges Graduate program in 2017/2018 and meeting Senior Judge Betty Barteau during that program, I have added another “Betty” to my list of people that I most admire. The struggles she endured while blazing a trail for future female attorneys is awe-inspiring.

Do you have a favorite saying or quote?
I’m a motivational quote junkie. I have lots of favorite quotes. Some of them are:

“No one can make you feel inferior without your consent.”
—Eleanor Roosevelt

“Your dreams don’t work unless you do.”
—unknown author

“Courage is being scared to death, but saddling up anyway.”
—John Wayne

“Integrity is doing the right thing even when no one is watching.”
—C.S. Lewis

Name one or more books that would make your recommended reading list.
At this point in my life, I mostly read non-fiction books. I enjoy reading travel books to learn about the different cultures around the world. I also enjoy autobiographies of interesting people.

I have always enjoyed the John Grisham books, so if I were to read a fictional novel, it would be one of his. One of my favorite Grisham books is
Beginning in 2008, Trial Court Technology (TCT) partnered with the Indiana Criminal Justice Institute (ICJI) and developed e-ticketing software for use by law enforcement agencies throughout the state.

Using the electronic citation and warning system (eCWS), officers can electronically record citation information in the field. This eliminates the need for redundant manual data entry and drastically reduces administrative work. More importantly, it increases the safety of Hoosier roadways by quickly identifying dangerous drivers and reducing the time needed for a traffic stop.

Today, over 14,000 officers in 3 state agencies, 78 Sheriff Departments, and 379 Police Departments use eCWS.

In 2018, there were 464,627 new court cases created for infraction and ordinance violations statewide. 80% of these cases were filed into the statewide case management system called Odyssey. And, the majority of the cases filed in Odyssey were e-filed thanks to eCWS.

The funding received through ICJI for eCWS has primarily focused on the enforcement of state and federal laws for commercial drivers, whether they are driving a big rig or a personal vehicle. In Indiana, any law enforcement officer can issue a citation or warning to a person holding a commercial driver license (CDL). This focus includes the timely submission of suspension and conviction information for the CDL holder to the Bureau of Motor Vehicles from the local courts handling traffic cases.

One of the grants that TCT received from the United States Department of Transportation was an incentive grant to prohibit racial profiling. The primary objective of this grant was to enact and enforce laws that prohibit the use of racial profiling in the enforcement of traffic laws on Federal-aid highways, and to maintain and allow public inspection of statistics on motor vehicle stops.

Because eCWS has the ability to collect race data, law enforcement agencies can review their citations, including the race data, by agency and by individual officers. When an officer issues a ticket using eCWS software, most of the data populates the e-ticket when the officer scans the barcode on the driver license and vehicle registration. Although race data is not available on the driver license, the officer has the ability to enter the race data into the program. Some agencies require their officers to populate the race field, but it is not a required field in the application.

The final task for TCT under this grant is to make race and ethnicity data from eCWS available on a public website. This site is now available, and the public can search the entire database or search by an individual county.

For additional information on eCWS and TCT please contact Mary DePrez at mary.deprez@courts.in.gov or 317-234-2604.

To search e-ticket demographic data, go to public.courts.in.gov/paecws

For a list of agencies using the system, see courts.in.gov/admin/2655.htm
**Voice of the Child**

Two foster youth spoke briefly about how meaningful and helpful their CASA volunteers are to them. One former foster youth, who now serves as a CASA himself, also spoke about the difference an advocate can make in the life of a child.

After the CASA rally, volunteers were invited onto the House floor and Representative McNamara asked for a moment of privilege to recognize the CASA volunteers in the chamber for CASA Day. Several legislators, including Speaker of the House Brian Bosma, thanked the GAL/CASA volunteers for the invaluable service that they provide to the State of Indiana and its most vulnerable children.

Since receiving additional funding from the Indiana General Assembly, the GAL/CASA network has expanded into several additional counties and now has programs in 91% of Indiana counties. In 2018, GAL/CASA programs reduced by 40% the number of children waiting for an advocate across the state. The State Office and local programs have also implemented a statewide case management system to track child welfare cases and to provide quality data on the children they serve. In 2018, there were over 4,700 volunteers in 84 Indiana counties advocating on behalf of 26,431 children.

If you want more information on becoming a CASA volunteer or starting a CASA volunteer program, please contact State Director Leslie Dunn at leslie.dunn@courts.in.gov.

**Sidebar with Judge Bowen-Slaven**

The Brethren. I’m currently reading the Stephen Hawking book entitled Brief Answers to the Big Questions. It’s a book that really makes you think about our universe and the bigger picture.

**Do you have a preferred getaway spot or place where you like to relax, alone or with your family?**

During the winter months, I look forward to a trip to a beach in a southern climate. There’s nothing as relaxing for me as the sound of the ocean waves.

**Do you have a favorite meal/recipe/restaurant?**

My favorite food is seafood, especially shrimp and lobster. I don’t really have a favorite restaurant, but I enjoy trying coastal non-franchise seafood restaurants when on vacation.

**What are you most looking forward to in the next 10 years?**

Our oldest son graduated from Purdue University this past year and our youngest son is currently a Purdue student. I’m looking forward to seeing where their careers take them and where they will end up settling in with a family of their own. I’d also like to start traveling internationally.

**Benefits of Indiana’s Electronic Ticketing System**

- Eliminates handwritten tickets and the need to enter the same information into a separate database(s)
- Enhances safety of Hoosier streets and highways by identifying dangerous drivers quickly
- Eliminates duplicate entries by law enforcement, courts, clerks, and the Bureau of Motor Vehicles
- Increases accuracy of information—data fields pre-populated from license and registration
- Reduces errors because data is not retyped multiple times
- Gives officers more time to patrol by reducing paperwork
- Saves clerical time for clerks, courts, and agencies because data is transferred electronically
- Improves timeliness by making data available electronically

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Portraits unveiling

On April 16, a brief ceremony took place to unveil a new look for the Supreme Court Conference Room. The Indiana Bar Foundation gifted to the Court a painting of former Chief Justice Brent Dickson (1986-2016) by northwest Indiana artist Michael Chelich. Additionally, photographs of former Justices Robert Rucker (1999-2017) and Myra Selby (1995-1999) have been added to the room.

Allen Superior Court expands program

The Indiana Criminal Justice Institute (ICJI) awarded a grant of more than $200,000 to the Allen County Juvenile Center’s “Check and Connect” Program, an effort to mentor students in grades K-12. The program serves students who are at risk of dropping out of school. It pairs students with trained mentors who advocate for and challenge the student to make education a priority.

Look for a related article by Allen Superior Court Judge Andrea R. Trevino in an upcoming issue.

New Executive Director, Office of Court Services

The Indiana Supreme Court’s Chief Administrative Officer, Justin Forkner, announced that Mary Kay Hudson has been selected as the new Executive Director of the Indiana Office of Court Services. Mary Kay has been a Deputy Director in IOCS, overseeing the Justice Services Division, since 2016. She started with the Court in 2002, when she was hired to be the Drug Court Coordinator for the Indiana Judicial Center after working in Marion County’s probation department and drug treatment diversion program. She has been instrumental in the success of many of the Court’s largest criminal justice reform initiatives, including problem-solving courts, evidence-based decision making, and the pretrial release pilots.

Clinton judge deployed for military duty

Major Justin Hunter serves in the Indiana Army National Guard. He will be deployed this summer to active duty. During Judge Hunter’s absence the Clinton County Superior Court will be in the experienced hands of Donald Currie, a Senior Judge who also had military experience when he served as a Lieutenant Colonel in the Indiana Guard.
Judicial appointments

Travis L. Clowers was appointed to the Posey County Superior Court, succeeding Judge Brent Almon who retired on Feb. 28, 2019. He had served as the elected prosecutor in Posey County, a position he held since January 2011. Prior to his election as prosecutor, Clowers served in both the Vanderburgh County and the Brown County prosecutor’s offices. He earned a Bachelor of Science from University of Southern Indiana and his law degree from Florida Coastal School of Law.

Benjamin D. Vanderpool was appointed to the Wabash County Superior Court to succeed Judge Amy Conner Cornell who passed away earlier this year. Vanderpool has been in private practice in Wabash and Warsaw, Indiana since graduating law school. He earned his Bachelor of Science from Purdue University and his law degree from Thomas M. Cooley Law School.

Christopher D. Kehler was appointed to the new Kosciusko County Superior Court which will open July 1. Kehler has been in private practice in Warsaw, Indiana since graduating law school. He has also served as an adjunct professor at Ivy Tech Community College. Kehler earned a Bachelor of Arts from Franklin College and his law degree from Valparaiso University School of Law.

Jackson County Judicial Center opening

An open house was conducted on February 15, 2019, for the new 38,000 square-foot Jackson County Judicial Center at 109 S. Sugar Street in Brownstown. It will house three courtrooms with space for a fourth, the Prosecutor’s Office, and the Clerk’s Office.

All three Jackson County Courts will now be housed in the same building, as Jackson Superior Court #1 moved from Seymour to the new building. The Judicial Center connects to an existing Annex containing office spaces related to the court functions and will implement a higher level of security. A sally port in the basement with secure circulation through the core of the building will limit interaction with detainees while in the building.

Justice partners addictions response training & grants

Training

To capitalize on energy generated at the July 2018 Statewide Opioid Summit, the Indiana Office of Court Services (IOCS) has partnered with Indiana University and the Indiana Family and Social Services Administration/Division of Mental Health and Addiction to host regional trainings.

Designed to improve collaborative response to the needs of justice-involved people with substance use or other mental health disorders, training will allow criminal justice and behavioral health partners to assess treatment resources, gaps, and opportunities across their local justice systems.

Counties were asked to nominate a team consisting of at least one representative from courts, community supervision, pretrial (pretrial officer, prosecutor, defense attorney), the sheriff’s office, and treatment providers.

Participants:

- Analyze local system practices to identify gaps, resources, and opportunities for identifying people with behavioral health concerns
- Develop a “map” that illustrates how people with substance use or other mental health disorders connect with and progress through the local criminal justice system
- Identify one or more interventions that can be implemented to increase access to treatment

More info at tinyurl.com/response-nom

Grants

In conjunction with the trainings, counties have the opportunity to apply for the Justice Partners Addictions Response Grant to address Opioid Use Disorders/Substance Use Disorders. Grants aim to provide financial assistance to counties using a Sequential Intercept Model (SIM) approach to enhance collaborative partnerships between the local criminal justice system and behavioral health care providers.

Grant funds up to $60,000 are available to each county and applications will be accepted through September 30, 2019. $60,000 in additional grants will be offered in 2020.

More info at tinyurl.com/response-grants

Questions?

Contact Diane Haver, Indiana Office of Court Services, at (317) 234-8949 or diane.haver@courts.in.gov
As court outsiders, jurors understandably have questions and concerns that arise during trial and look to the judge for answers. Judges bear tremendous responsibility at these times to preserve a defendant’s constitutional rights and to avoid the appearance of undue influence while addressing jurors’ legitimate concerns.

Judges have clear guidance for handling many juror inquiries, such as questions about interpretations of law during deliberations or questions about reviewing evidence or testimony. See Bouye v. State, 699 N.E.2d 620, 628 (Ind. 1998); I.C. § 34–36–1–6; see also Jury Rule 28 (assisting jurors at an impasse). However, judges occasionally face unusual situations necessitating communication with jurors (i.e. security, privacy, or time-limitation issues) in which there is not definitive guidance on how to respond. In the interest of expediency, a judge may be tempted to quickly consult with jurors ex parte and inform the parties and counsel later, especially if the issue does not go to the substance of the proceeding.

As a recent Second Circuit decision highlights though, a judge may do so at the peril of his or her own record. In United States v. Mehta, 919 F.3d 175 (2nd Cir. 2019), the Second Circuit vacated and remanded Gaurav and Isha Mehta’s convictions for marriage and immigration fraud when the district court judge had an ex parte meeting with several jurors about their safety concerns.
During a break in the trial, five jurors asked to speak with the judge, and he met them without the defendants or lawyers present. The jurors indicated that the Mehtas would follow and stare at the jurors as they walked to and from the courthouse. The judge commented on the defendants’ behavior (“That’s disturbing . . . I don’t know why they are doing that”) and promised to assign a court security officer to accompany the jurors to their cars. The judge later informed the parties’ counsel of the ex parte communication, without stating what specifically transpired, and told defense counsel to have their clients “stay the hell away” from the jurors.

The Second Circuit held that the district judge’s handling of the jurors’ inquiry resulted in a violation of the Mehtas’ constitutional right to be present at every stage of the proceedings and necessitated a new trial. While the Second Circuit did not question the judge’s conscientiousness or good faith in consulting with the jurors to address their concerns, the appellate court reasoned that the judge’s failure to require the jurors to put their inquiries in writing and his decision to meet with them ex parte resulted in a situation in which “the judge found himself required to respond to unexpected questions in a context where it was difficult to anticipate, much less contain, the direction the conversation would take.” Id. at 181. The result was that the judge made off-handed remarks which implied that he agreed with the jurors’ concerns that the defendants were dangerous.

The Second Circuit also pointed out that the district judge failed to take any action to mitigate the prejudicial effects of the ex parte meeting (i.e. asking the jurors whether they could remain impartial despite security apprehensions). Id. at 182. The Second Circuit determined that the totality of circumstances, including the judge’s remarks, could have impacted the jurors’ verdict.

To avoid the pitfalls described in the Mehta case, here are some tips for judges to help preserve a clean record and to maintain compliance with the Code of Judicial Conduct when jurors have questions on administrative or security matters:

- Require the juror(s) to put the inquiry/concern in writing.
- Notify all parties and counsel, allowing them to read the inquiry.
- If further information is needed, bring the juror(s) in individually and question the juror(s) on the record.
- Allow counsel to have an opportunity to suggest a response to the inquiry/concern and to make a record.
- Inform the parties/counsel on the record of the court’s response.
- Bring the juror (or entire jury if the inquiry pertains to the entire panel) into the courtroom and submit your response.

If the parties (or their counsel) are not immediately available, but there is an emergency issue that must be addressed (i.e. juror has been notified that a family member has been in an accident), conduct the following proceedings on the record:

1) bring the juror into the courtroom to state the emergency,
2) state the court’s attempts to notify the parties/counsel,
3) give the court’s response, and
4) upon the parties/counsel return, give the parties/counsel an opportunity to listen to the record, voice any objections to the action that was taken, and to suggest any corrective action.

For most situations, if a trial judge follows this advice, he or she will preserve the trial record and not be faced with a retrial for inadvertent mistakes based on juror questions. As with other ethical concerns, if a judge is faced with a situation in which unintended ex parte communication has occurred with jurors, Commission staff is available to assist the judge with how to proceed.

1 Although this is a federal case, the Mehta decision highlights concerns that have application to both state and federal jurisdictions regarding ex parte communications with jurors.
MISSION
Our goal is to foster communication, respond to concerns, and contribute to the spirit and pride that encompasses the work of all members of the judiciary around the state. We welcome your comments, suggestions, and news. If you have an article, announcement, or particular issue you would like to see in our publication, please contact us by mail or email at james.maguire@courts.in.gov.

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May 15 @ISBAPresident
Eye-opening & Inspiring, on many levels, from the participants to the team behind it all. If you haven’t been - get to a Veterans Court or other problem solving court graduation. You will be better for it.

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