

HOUSE BILL No. 1049

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-37.

Synopsis: County public safety fees and funds. Allows a county legislative body to adopt an ordinance to require a defendant convicted in a criminal action in a court located in the county to pay a county public safety fee. Provides that the amount of the fee: (1) is set by the court in an amount of at least \$50 and not more than \$200; and (2) is based on the defendant's ability to pay the fee. Provides that fees collected by court clerks are deposited in county public safety funds established in those counties that adopt a county public safety fee ordinance. Specifies that county public safety funds may be used only to provide funding for certain public safety programs and activities, including law enforcement systems, firefighting systems, emergency medical services systems, probation departments, community corrections programs, detention facilities, and medical and health expenses for jail inmates.

Effective: July 1, 2014.

Arnold L

January 7, 2014, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1049

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-37-5-33 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 33. (a) This section applies to a court:**
4 **(1) in which a criminal action results in a:**
5 **(A) felony conviction under IC 35-50-2; or**
6 **(B) misdemeanor conviction under IC 35-50-3; and**
7 **(2) that is located in a county where the county legislative**
8 **body has adopted an ordinance under subsection (b).**
9 **(b) A county legislative body may adopt an ordinance that**
10 **requires a defendant in a criminal action described in subsection**
11 **(a) to pay a county public safety fee.**
12 **(c) The amount of a county public safety fee described in**
13 **subsection (b):**
14 **(1) shall be set by the court;**
15 **(2) must be based on a defendant's ability to pay the fee; and**
16 **(3) subject to subdivision (2), must be:**



1 (A) at least fifty dollars (\$50); and

2 (B) not more than two hundred dollars (\$200).

3 (d) If a defendant is required to pay a county public safety fee
4 under this section, the clerk shall collect the county public safety
5 fee from the defendant.

6 SECTION 2. IC 33-37-7-2, AS AMENDED BY P.L.284-2013,
7 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2014]: Sec. 2. (a) The clerk of a circuit court shall distribute
9 semiannually to the auditor of state as the state share for deposit in the
10 homeowner protection unit account established by IC 4-6-12-9 one
11 hundred percent (100%) of the automated record keeping fees collected
12 under IC 33-37-5-21 with respect to actions resulting in the accused
13 person entering into a pretrial diversion program agreement under
14 IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and
15 for deposit in the state general fund seventy percent (70%) of the
16 amount of fees collected under the following:

17 (1) IC 33-37-4-1(a) (criminal costs fees).

18 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

19 (3) IC 33-37-4-3(a) (juvenile costs fees).

20 (4) IC 33-37-4-4(a) (civil costs fees).

21 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

22 (6) IC 33-37-4-7(a) (probate costs fees).

23 (7) IC 33-37-5-17 (deferred prosecution fees).

24 (b) The clerk of a circuit court shall distribute semiannually to the
25 auditor of state for deposit in the state user fee fund established in
26 IC 33-37-9-2 the following:

27 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
28 interdiction, and correction fees collected under
29 IC 33-37-4-1(b)(5).

30 (2) Twenty-five percent (25%) of the alcohol and drug
31 countermeasures fees collected under IC 33-37-4-1(b)(6),
32 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

33 (3) One hundred percent (100%) of the child abuse prevention
34 fees collected under IC 33-37-4-1(b)(7).

35 (4) One hundred percent (100%) of the domestic violence
36 prevention and treatment fees collected under IC 33-37-4-1(b)(8).

37 (5) One hundred percent (100%) of the highway work zone fees
38 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

39 (6) One hundred percent (100%) of the safe schools fee collected
40 under IC 33-37-5-18.

41 (7) The following:

42 (A) For a county operating under the state's automated judicial



- 1 system, one hundred percent (100%) of the automated record
 2 keeping fee (IC 33-37-5-21) not distributed under subsection
 3 (a).
 4 (B) This clause applies before July 1, 2013, and after June 30,
 5 2015. For a county not operating under the state's automated
 6 judicial system, eighty percent (80%) of the automated record
 7 keeping fee (IC 33-37-5-21) not distributed under subsection
 8 (a).
 9 (C) This clause applies after June 30, 2013, and before July 1,
 10 2015. For a county not operating under the state's automated
 11 judicial system, five dollars (\$5) of the automated record
 12 keeping fee (IC 33-37-5-21) not distributed under subsection
 13 (a).
 14 (c) The clerk of a circuit court shall distribute monthly to the county
 15 auditor the following:
 16 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
 17 interdiction, and correction fees collected under
 18 IC 33-37-4-1(b)(5).
 19 (2) Seventy-five percent (75%) of the alcohol and drug
 20 countermeasures fees collected under IC 33-37-4-1(b)(6),
 21 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
 22 The county auditor shall deposit fees distributed by a clerk under this
 23 subsection into the county drug free community fund established under
 24 IC 5-2-11.
 25 (d) The clerk of a circuit court shall distribute monthly to the county
 26 auditor one hundred percent (100%) of the late payment fees collected
 27 under IC 33-37-5-22. The county auditor shall deposit fees distributed
 28 by a clerk under this subsection as follows:
 29 (1) If directed to do so by an ordinance adopted by the county
 30 fiscal body, the county auditor shall deposit forty percent (40%)
 31 of the fees in the clerk's record perpetuation fund established
 32 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
 33 county general fund.
 34 (2) If the county fiscal body has not adopted an ordinance
 35 described in subdivision (1), the county auditor shall deposit all
 36 the fees in the county general fund.
 37 (e) The clerk of the circuit court shall distribute semiannually to the
 38 auditor of state for deposit in the sexual assault victims assistance
 39 account established by IC 5-2-6-23(h) one hundred percent (100%) of
 40 the sexual assault victims assistance fees collected under
 41 IC 33-37-5-23.
 42 (f) The clerk of a circuit court shall distribute monthly to the county



- 1 auditor the following:
- 2 (1) One hundred percent (100%) of the support and maintenance
- 3 fees for cases designated as non-Title IV-D child support cases in
- 4 the Indiana support enforcement tracking system (ISETS) or the
- 5 successor statewide automated support enforcement system
- 6 collected under IC 33-37-5-6.
- 7 (2) The percentage share of the support and maintenance fees for
- 8 cases designated as Title IV-D child support cases in ISETS or the
- 9 successor statewide automated support enforcement system
- 10 collected under IC 33-37-5-6 that is reimbursable to the county at
- 11 the federal financial participation rate.
- 12 The county clerk shall distribute monthly to the department of child
- 13 services the percentage share of the support and maintenance fees for
- 14 cases designated as Title IV-D child support cases in ISETS, or the
- 15 successor statewide automated support enforcement system, collected
- 16 under IC 33-37-5-6 that is not reimbursable to the county at the
- 17 applicable federal financial participation rate.
- 18 (g) The clerk of a circuit court shall distribute monthly to the county
- 19 auditor the following:
- 20 (1) One hundred percent (100%) of the small claims service fee
- 21 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in
- 22 the county general fund.
- 23 (2) One hundred percent (100%) of the small claims garnishee
- 24 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for
- 25 deposit in the county general fund.
- 26 (h) This subsection does not apply to court administration fees
- 27 collected in small claims actions filed in a court described in IC 33-34.
- 28 The clerk of a circuit court shall semiannually distribute to the auditor
- 29 of state for deposit in the state general fund one hundred percent
- 30 (100%) of the following:
- 31 (1) The public defense administration fee collected under
- 32 IC 33-37-5-21.2.
- 33 (2) The judicial salaries fees collected under IC 33-37-5-26.
- 34 (3) The DNA sample processing fees collected under
- 35 IC 33-37-5-26.2.
- 36 (4) The court administration fees collected under IC 33-37-5-27.
- 37 (i) The clerk of a circuit court shall semiannually distribute to the
- 38 auditor of state for deposit in the judicial branch insurance adjustment
- 39 account established by IC 33-38-5-8.2 one hundred percent (100%) of
- 40 the judicial insurance adjustment fee collected under IC 33-37-5-25.
- 41 (j) The proceeds of the service fee collected under
- 42 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as



- 1 follows:
- 2 (1) The clerk shall distribute one hundred percent (100%) of the
- 3 service fees collected in a circuit, superior, county, or probate
- 4 court to the county auditor for deposit in the county general fund.
- 5 (2) The clerk shall distribute one hundred percent (100%) of the
- 6 service fees collected in a city or town court to the city or town
- 7 fiscal officer for deposit in the city or town general fund.
- 8 (k) The proceeds of the garnishee service fee collected under
- 9 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
- 10 follows:
- 11 (1) The clerk shall distribute one hundred percent (100%) of the
- 12 garnishee service fees collected in a circuit, superior, county, or
- 13 probate court to the county auditor for deposit in the county
- 14 general fund.
- 15 (2) The clerk shall distribute one hundred percent (100%) of the
- 16 garnishee service fees collected in a city or town court to the city
- 17 or town fiscal officer for deposit in the city or town general fund.
- 18 (l) The clerk of the circuit court shall distribute semiannually to the
- 19 auditor of state for deposit in the home ownership education account
- 20 established by IC 5-20-1-27 one hundred percent (100%) of the
- 21 following:
- 22 (1) The mortgage foreclosure counseling and education fees
- 23 collected under IC 33-37-5-32 (before its expiration on January
- 24 1, 2015).
- 25 (2) Any civil penalties imposed and collected by a court for a
- 26 violation of a court order in a foreclosure action under
- 27 IC 32-30-10.5.
- 28 (m) This subsection applies to a county that is not operating under
- 29 the state's automated judicial system. The clerk of a circuit court shall
- 30 distribute monthly to the county auditor the following part of the
- 31 automated record keeping fee (IC 33-37-5-21) not distributed under
- 32 subsection (a) for deposit in the clerk's record perpetuation fund:
- 33 (1) Twenty percent (20%), before July 1, 2013, and after June 30,
- 34 2015.
- 35 (2) Two dollars (\$2) of each fee collected, after June 30, 2013,
- 36 and before July 1, 2015.
- 37 (n) The clerk of a circuit court shall distribute semiannually to the
- 38 auditor of state one hundred percent (100%) of the pro bono legal
- 39 services fees collected before July 1, 2017, under IC 33-37-5-31. The
- 40 auditor of state shall transfer semiannually the pro bono legal services
- 41 fees to the Indiana Bar Foundation (or a successor entity) as the entity
- 42 designated to organize and administer the interest on lawyers trust



1 accounts (IOLTA) program under Rule 1.15 of the Rules of
 2 Professional Conduct of the Indiana supreme court. The Indiana Bar
 3 Foundation shall:

4 (1) deposit in an appropriate account and otherwise manage the
 5 fees the Indiana Bar Foundation receives under this subsection in
 6 the same manner the Indiana Bar Foundation deposits and
 7 manages the net earnings the Indiana Bar Foundation receives
 8 from IOLTA accounts; and

9 (2) use the fees the Indiana Bar Foundation receives under this
 10 subsection to assist or establish approved pro bono legal services
 11 programs.

12 The handling and expenditure of the pro bono legal services fees
 13 received under this section by the Indiana Bar Foundation (or its
 14 successor entity) are subject to audit by the state board of accounts. The
 15 amounts necessary to make the transfers required by this subsection are
 16 appropriated from the state general fund.

17 **(o) The clerk of a circuit court shall distribute monthly to the**
 18 **county auditor one hundred percent (100%) of the county public**
 19 **safety fees collected under IC 33-37-5-33. The county auditor shall**
 20 **deposit fees distributed by a clerk under this subsection into the**
 21 **county public safety fund established under IC 33-37-12.**

22 SECTION 3. IC 33-37-7-8, AS AMENDED BY P.L.136-2012,
 23 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2014]: Sec. 8. (a) The clerk of a city or town court shall
 25 distribute semiannually to the auditor of state as the state share for
 26 deposit in the homeowner protection unit account established by
 27 IC 4-6-12-9 one hundred percent (100%) of the automated record
 28 keeping fees collected under IC 33-37-5-21 with respect to actions
 29 resulting in the accused person entering into a pretrial diversion
 30 program agreement under IC 33-39-1-8 or a deferral program
 31 agreement under IC 34-28-5-1 and for deposit in the state general fund
 32 fifty-five percent (55%) of the amount of fees collected under the
 33 following:

34 (1) IC 33-37-4-1(a) (criminal costs fees).

35 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

36 (3) IC 33-37-4-4(a) (civil costs fees).

37 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

38 (5) IC 33-37-5-17 (deferred prosecution fees).

39 (b) The city or town fiscal officer shall distribute monthly to the
 40 county auditor as the county share twenty percent (20%) of the amount
 41 of fees collected under the following:

42 (1) IC 33-37-4-1(a) (criminal costs fees).



- 1 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
 2 (3) IC 33-37-4-4(a) (civil costs fees).
 3 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
 4 (5) IC 33-37-5-17 (deferred prosecution fees).
 5 (c) The city or town fiscal officer shall retain twenty-five percent
 6 (25%) as the city or town share of the fees collected under the
 7 following:
 8 (1) IC 33-37-4-1(a) (criminal costs fees).
 9 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
 10 (3) IC 33-37-4-4(a) (civil costs fees).
 11 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
 12 (5) IC 33-37-5-17 (deferred prosecution fees).
 13 (d) The clerk of a city or town court shall distribute semiannually to
 14 the auditor of state for deposit in the state user fee fund established in
 15 IC 33-37-9 the following:
 16 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 17 interdiction, and correction fees collected under
 18 IC 33-37-4-1(b)(5).
 19 (2) Twenty-five percent (25%) of the alcohol and drug
 20 countermeasures fees collected under IC 33-37-4-1(b)(6),
 21 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
 22 (3) One hundred percent (100%) of the highway work zone fees
 23 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
 24 (4) One hundred percent (100%) of the safe schools fee collected
 25 under IC 33-37-5-18.
 26 (5) One hundred percent (100%) of the automated record keeping
 27 fee (IC 33-37-5-21) not distributed under subsection (a).
 28 (e) The clerk of a city or town court shall distribute monthly to the
 29 county auditor the following:
 30 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
 31 interdiction, and corrections fees collected under
 32 IC 33-37-4-1(b)(5).
 33 (2) Seventy-five percent (75%) of the alcohol and drug
 34 countermeasures fees collected under IC 33-37-4-1(b)(6),
 35 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
 36 The county auditor shall deposit fees distributed by a clerk under this
 37 subsection into the county drug free community fund established under
 38 IC 5-2-11.
 39 (f) The clerk of a city or town court shall distribute monthly to the
 40 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
 41 percent (100%) of the following:
 42 (1) The late payment fees collected under IC 33-37-5-22.



1 (2) The small claims service fee collected under
2 IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

3 (3) The small claims garnishee service fee collected under
4 IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

5 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
6 fees distributed by a clerk under this subsection in the city or town
7 general fund.

8 (g) The clerk of a city or town court shall semiannually distribute to
9 the auditor of state for deposit in the state general fund one hundred
10 percent (100%) of the following:

11 (1) The public defense administration fee collected under
12 IC 33-37-5-21.2.

13 (2) The DNA sample processing fees collected under
14 IC 33-37-5-26.2.

15 (3) The court administration fees collected under IC 33-37-5-27.

16 (h) The clerk of a city or town court shall semiannually distribute to
17 the auditor of state for deposit in the judicial branch insurance
18 adjustment account established by IC 33-38-5-8.2 one hundred percent
19 (100%) of the judicial insurance adjustment fee collected under
20 IC 33-37-5-25.

21 (i) The clerk of a city or town court shall semiannually distribute to
22 the auditor of state for deposit in the state general fund seventy-five
23 percent (75%) of the judicial salaries fee collected under
24 IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
25 percent (25%) of the judicial salaries fee collected under
26 IC 33-37-5-26. The funds retained by the city or town shall be
27 prioritized to fund city or town court operations.

28 (j) The clerk of a city or town court shall distribute semiannually to
29 the auditor of state one hundred percent (100%) of the pro bono legal
30 services fees collected before July 1, 2017, under IC 33-37-5-31. The
31 auditor of state shall transfer semiannually the pro bono legal services
32 fees to the Indiana Bar Foundation (or a successor entity) as the entity
33 designated to organize and administer the interest on lawyers trust
34 accounts (IOLTA) program under Rule 1.15 of the Rules of
35 Professional Conduct of the Indiana supreme court. The Indiana Bar
36 Foundation shall:

37 (1) deposit in an appropriate account and otherwise manage the
38 fees the Indiana Bar Foundation receives under this subsection in
39 the same manner the Indiana Bar Foundation deposits and
40 manages the net earnings the Indiana Bar Foundation receives
41 from IOLTA accounts; and

42 (2) use the fees the Indiana Bar Foundation receives under this



- 1 subsection to assist or establish approved pro bono legal services
 2 programs.
 3 The handling and expenditure of the pro bono legal services fees
 4 received under this section by the Indiana Bar Foundation (or its
 5 successor entity) are subject to audit by the state board of accounts. The
 6 amounts necessary to make the transfers required by this subsection are
 7 appropriated from the state general fund.
- 8 **(k) The clerk of a city or town court shall distribute monthly to**
 9 **the county auditor one hundred percent (100%) of the county**
 10 **public safety fees collected under IC 33-37-5-33. The county**
 11 **auditor shall deposit fees distributed by a clerk under this**
 12 **subsection into the county public safety fund established under**
 13 **IC 33-37-12.**
- 14 SECTION 4. IC 33-37-12 IS ADDED TO THE INDIANA CODE
 15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2014]:
- 17 **Chapter 12. County Public Safety Fund**
- 18 **Sec. 1. As used in this chapter, "fund" refers to a county public**
 19 **safety fund established under section 2(a) of this chapter.**
- 20 **Sec. 2. (a) A county public safety fund is established in each**
 21 **county where the county legislative body has adopted an ordinance**
 22 **under IC 33-37-5-33(b) that requires a defendant in a criminal**
 23 **action that results in a conviction to pay a county public safety fee.**
- 24 **(b) The fund may be used only:**
- 25 **(1) to provide funding for public safety as referred to in**
 26 **IC 6-3.5-1.1-25(a); and**
- 27 **(2) upon appropriation by the county fiscal body.**
- 28 **(c) The fund shall be administered by the county auditor.**
- 29 **(d) The fund consists of county public safety fees deposited in**
 30 **the fund under:**
- 31 **(1) IC 33-37-7-2(o); and**
- 32 **(2) IC 33-37-7-8(k).**
- 33 **(e) The expenses of administering the fund shall be paid from**
 34 **money in the fund.**
- 35 **(f) Any money earned from the investment of money in the fund**
 36 **becomes part of the fund.**
- 37 **(g) Money in the fund at the end of a fiscal year does not revert**
 38 **to the county's general fund.**

