

HOUSE BILL No. 1141

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-33-4; IC 33-37.

Synopsis: Traffic amnesty program. Establishes a temporary traffic amnesty program to permit certain persons owing unpaid traffic fines, or who may be required to pay a fee for reinstatement of driving privileges, to obtain a reduction in the amount owed or amount payable. Specifies that a person seeking a reduction in fees owed is not required to pay a court filing fee but, if amnesty is granted and the court establishes a payment plan, the person is required to pay a \$50 installment fee. Provides that as part of the traffic amnesty program a person must: (1) pay the driving privileges reinstatement fee to the bureau of motor vehicles (bureau); (2) provide proof of financial responsibility to the court; and (3) not be ineligible to have the person's driving privileges reinstated. Provides that the court must transmit a copy of its order to the bureau in a manner prescribed by the bureau.

Effective: July 1, 2019.

Shackleford

January 7, 2019, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1141

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 9-33-4 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2019]:

4 **Chapter 4. Traffic Amnesty Program**

5 **Sec. 1. This chapter does not apply to the following:**

- 6 (1) A person with a child support arrearage, unless the person
- 7 has been making the person's required child support
- 8 payments for at least six (6) months preceding the date the
- 9 person files the petition for traffic amnesty.
- 10 (2) A person with an outstanding arrest warrant.
- 11 (3) A person sentenced to pay restitution to the victim of a
- 12 crime, if the person is not current with the person's required
- 13 payments.

14 **Sec. 2. This chapter applies to the following:**

- 15 (1) An unpaid judgment for an infraction described in this
- 16 title that relates to the operation of a motor vehicle, if the
- 17 infraction was committed before January 1, 2017.



1 (2) A driving privileges reinstatement fee (as described in
2 IC 9-25-6-15), which a person with a suspended driver's
3 license is or would be required to pay to reinstate the person's
4 driver's license, if the person's driver's license was suspended
5 before January 1, 2017.

6 (3) Any court costs, administrative fees, late fees, or other fees
7 imposed on a person in connection with an unpaid judgment
8 or fee described in subdivision (1) or (2).

9 **Sec. 3. The following definitions apply throughout this chapter:**

10 (1) "Proof of financial responsibility" has the meaning set
11 forth in IC 9-25-2-3.

12 (2) "Qualified person" means a person to whom this chapter
13 applies who owes unpaid fees or is or would be required to
14 pay a driving privileges reinstatement fee to obtain a valid
15 driver's license.

16 (3) "Unpaid fees" means a judgment, fee, or cost described in
17 section 2 of this chapter, whether already owed or required to
18 be paid to obtain a valid driver's license.

19 **Sec. 4. (a) A qualified person may seek a reduction in the**
20 **person's unpaid fees by filing a verified petition for traffic amnesty**
21 **in a circuit or superior court in the county in which the violation**
22 **giving rise to the unpaid fees was committed. A petition filed under**
23 **this section must be filed after December 31, 2019, and before July**
24 **1, 2021. The petition must include the following:**

25 (1) The person's full name and all other legal names or aliases
26 by which the person is or has been known.

27 (2) The person's date of birth.

28 (3) The case number or court cause number of the relevant
29 violations.

30 (4) An affirmation that the person:

31 (A) does not owe a child support arrearage or, if the person
32 owes a child support arrearage, has been making the
33 person's required child support payments for at least the
34 preceding six (6) months;

35 (B) does not have an outstanding arrest warrant; and

36 (C) was not sentenced to pay restitution to the victim of a
37 crime or, if the person was sentenced to pay restitution, is
38 current with the person's required payments.

39 (5) The person's:

40 (A) Social Security number; and

41 (B) driver's license number.

42 (6) The date of the violation.



1 (7) If the person has an income level below one hundred
 2 twenty-five percent (125%) of the federal income poverty
 3 level, a:

4 (A) statement of the person's income and the number of
 5 dependent children the person has, if applicable; and

6 (B) copy of the person's most recent tax return or other
 7 documentary evidence establishing the person's income
 8 and number of dependent children.

9 (b) The person may include in a petition filed under this section
 10 any other information that the person believes may assist the court.

11 (c) A person who files a petition under this section shall file the
 12 petition under the court cause number of the infraction. The
 13 person is not required to pay the filing fee required in civil cases.

14 (d) The person shall serve a copy of the petition upon the
 15 prosecuting attorney in accordance with the Indiana Rules of Trial
 16 Procedure.

17 (e) The prosecuting attorney may reply to the petition not later
 18 than thirty (30) days after receipt of the petition. If the prosecuting
 19 attorney fails to timely reply to the petition, the prosecuting
 20 attorney has waived any objection to the petition.

21 (f) If a person wishes to receive traffic amnesty for infractions
 22 committed in different counties, the person must file a separate
 23 petition in each county in which a violation was committed.

24 **Sec. 5. (a)** If the prosecuting attorney does not object, or has
 25 waived objection to the petition under section 4 of this chapter, the
 26 court may grant the petition for traffic amnesty without a hearing.

27 (b) The court may summarily deny a petition if the petition does
 28 not meet the requirements of this chapter, or if the statements
 29 contained in the petition demonstrate that the petitioner is not
 30 entitled to relief.

31 (c) If the prosecuting attorney objects to the petition, the
 32 prosecuting attorney shall file the reasons for objecting to the
 33 petition with the court and serve a copy of the objections on the
 34 petitioner at the time the prosecuting attorney objects to the
 35 petition. The court shall set the matter for hearing not earlier than
 36 sixty (60) days after service of the petition on the prosecuting
 37 attorney.

38 **Sec. 6. (a)** The court shall grant a petition for traffic amnesty if
 39 the petitioner proves by a preponderance of evidence that the:

40 (1) person is a qualified person; and

41 (2) violation giving rise to the unpaid fees was committed
 42 before January 1, 2017.



1 (b) Except as provided in subsection (c), if the court grants a
2 petition for traffic amnesty, the court shall issue an order reducing
3 the amount of unpaid fees owed by the person by fifty percent
4 (50%). Except as provided in subsection (d), to the extent some or
5 all of the unpaid fees consist of a driving privileges reinstatement
6 fee, the court shall specify in its order that the petitioner is entitled
7 to driving privileges reinstatement after:

8 (1) paying fifty percent (50%) of the otherwise required
9 driving privileges reinstatement fee to the bureau;

10 (2) providing proof of financial responsibility to the court;
11 and

12 (3) the person is determined not to be otherwise ineligible to
13 have the person's driving privileges reinstated.

14 (c) If the person establishes that the person has an income level
15 below one hundred twenty-five percent (125%) of the federal
16 income poverty level, and if the court grants a petition for traffic
17 amnesty, the court shall issue an order reducing the amount of
18 unpaid fees owed by the person by eighty percent (80%). Except as
19 provided in subsection (d), to the extent some or all of the unpaid
20 fees consist of a driving privileges reinstatement fee, the court shall
21 specify in its order that the petitioner is entitled to driving
22 privileges reinstatement after:

23 (1) paying twenty percent (20%) of the otherwise required
24 driving privileges reinstatement fee to the bureau;

25 (2) providing proof of financial responsibility to the court;
26 and

27 (3) the person is determined not to be otherwise ineligible to
28 have the person's driving privileges reinstated.

29 (d) This subsection does not apply to a driver's license
30 reinstatement fee or other fees owed to the bureau. Instead of
31 requiring that a person pay the remaining fifty percent (50%)
32 (under subsection (b)) or twenty percent (20%) (under subsection
33 (c)) of unpaid fees in total, the court may establish a payment plan
34 to allow the person to pay the remaining fifty percent (50%) or
35 twenty percent (20%) of unpaid fees in installments, as determined
36 by the court. If the person fails to make payments as required, the
37 court may suspend the person's driver's license.

38 (e) If the court establishes a payment plan under subsection (d),
39 the person shall pay the fifty dollar (\$50) traffic amnesty
40 installment fee under IC 33-37-5-34.

41 (f) The court shall transmit a copy of its order to the bureau in
42 a form and manner prescribed by the bureau.



1 **(g) The grant or denial of a petition under this chapter is an**
 2 **appealable final order.**

3 SECTION 2. IC 33-37-5-34 IS ADDED TO THE INDIANA CODE
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 2019]: **Sec. 34. (a) The clerk shall collect a fifty dollar (\$50)**
 6 **traffic amnesty installment fee from every person permitted to pay**
 7 **unpaid fees on a payment plan under IC 9-33-4-6(d).**

8 **(b) This section expires July 1, 2021.**

9 SECTION 3. IC 33-37-7-2, AS AMENDED BY P.L.39-2017,
 10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2019]: Sec. 2. (a) The clerk of a circuit court shall distribute
 12 semiannually to the auditor of state as the state share for deposit in the
 13 homeowner protection unit account established by IC 4-6-12-9 one
 14 hundred percent (100%) of the automated record keeping fees collected
 15 under IC 33-37-5-21 with respect to actions resulting in the accused
 16 person entering into a pretrial diversion program agreement under
 17 IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and
 18 for deposit in the state general fund seventy percent (70%) of the
 19 amount of fees collected under the following:

- 20 (1) IC 33-37-4-1(a) (criminal costs fees).
- 21 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 22 (3) IC 33-37-4-3(a) (juvenile costs fees).
- 23 (4) IC 33-37-4-4(a) (civil costs fees).
- 24 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 25 (6) IC 33-37-4-7(a) (probate costs fees).
- 26 (7) IC 33-37-5-17 (deferred prosecution fees).

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

- 30 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 31 interdiction, and correction fees collected under
 32 IC 33-37-4-1(b)(5).
- 33 (2) Twenty-five percent (25%) 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 (3) One hundred percent (100%) of the child abuse prevention
 37 fees collected under IC 33-37-4-1(b)(7).
- 38 (4) One hundred percent (100%) of the domestic violence
 39 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- 40 (5) One hundred percent (100%) of the highway worksite zone
 41 fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 42 (6) One hundred percent (100%) of the safe schools fee collected



- 1 under IC 33-37-5-18.
- 2 (7) One hundred percent (100%) of the automated record keeping
3 fee collected under IC 33-37-5-21 not distributed under
4 subsection (a).
- 5 (c) The clerk of a circuit court shall distribute monthly to the county
6 auditor the following:
- 7 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
8 interdiction, and correction fees collected under
9 IC 33-37-4-1(b)(5).
- 10 (2) Seventy-five percent (75%) of the alcohol and drug
11 countermeasures fees collected under IC 33-37-4-1(b)(6),
12 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 13 The county auditor shall deposit fees distributed by a clerk under this
14 subsection into the county drug free community fund established under
15 IC 5-2-11.
- 16 (d) The clerk of a circuit court shall distribute monthly to the county
17 auditor one hundred percent (100%) of the late payment fees collected
18 under IC 33-37-5-22. The county auditor shall deposit fees distributed
19 by a clerk under this subsection as follows:
- 20 (1) If directed to do so by an ordinance adopted by the county
21 fiscal body, the county auditor shall deposit forty percent (40%)
22 of the fees in the clerk's record perpetuation fund established
23 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
24 county general fund.
- 25 (2) If the county fiscal body has not adopted an ordinance
26 described in subdivision (1), the county auditor shall deposit all
27 the fees in the county general fund.
- 28 (e) The clerk of the circuit court shall distribute semiannually to the
29 auditor of state for deposit in the sexual assault victims assistance fund
30 established by IC 5-2-6-23(j) one hundred percent (100%) of the sexual
31 assault victims assistance fees collected under IC 33-37-5-23.
- 32 (f) The clerk of a circuit court shall distribute monthly to the county
33 auditor the following:
- 34 (1) One hundred percent (100%) of the support and maintenance
35 fees for cases designated as non-Title IV-D child support cases in
36 the Indiana support enforcement tracking system (ISETS) or the
37 successor statewide automated support enforcement system
38 collected under IC 33-37-5-6.
- 39 (2) The percentage share of the support and maintenance fees for
40 cases designated as Title IV-D child support cases in ISETS or the
41 successor statewide automated support enforcement system
42 collected under IC 33-37-5-6 that is reimbursable to the county at



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



1 (1) The clerk shall distribute one hundred percent (100%) of the
 2 garnishee service fees collected in a circuit, superior, county, or
 3 probate court to the county auditor for deposit in the county
 4 general fund.

5 (2) The clerk shall distribute one hundred percent (100%) of the
 6 garnishee service fees collected in a city or town court to the city
 7 or town fiscal officer for deposit in the city or town general fund.

8 (l) The clerk of the circuit court shall distribute semiannually to the
 9 auditor of state for deposit in the home ownership education account
 10 established by IC 5-20-1-27 one hundred percent (100%) of the
 11 following:

12 (1) The mortgage foreclosure counseling and education fees
 13 collected under IC 33-37-5-33 (before its expiration on July 1,
 14 2017).

15 (2) Any civil penalties imposed and collected by a court for a
 16 violation of a court order in a foreclosure action under
 17 IC 32-30-10.5.

18 (m) The clerk of a circuit court shall distribute semiannually to the
 19 auditor of state one hundred percent (100%) of the pro bono legal
 20 services fees collected before July 1, 2022, under IC 33-37-5-31. The
 21 auditor of state shall transfer semiannually the pro bono legal services
 22 fees to the Indiana Bar Foundation (or a successor entity) as the entity
 23 designated to organize and administer the interest on lawyers trust
 24 accounts (IOLTA) program under Rule 1.15 of the Rules of
 25 Professional Conduct of the Indiana supreme court. The Indiana Bar
 26 Foundation shall:

27 (1) deposit in an appropriate account and otherwise manage the
 28 fees the Indiana Bar Foundation receives under this subsection in
 29 the same manner the Indiana Bar Foundation deposits and
 30 manages the net earnings the Indiana Bar Foundation receives
 31 from IOLTA accounts; and

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

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

40 **(n) The clerk of a circuit court shall distribute semiannually to**
 41 **the county auditor one hundred percent (100%) of the traffic**
 42 **amnesty installment fees collected under IC 33-37-5-34 for deposit**



1 in the county general fund. The county fiscal body shall
2 appropriate at least eighty percent (80%) of the revenue from the
3 traffic amnesty installment fees to defray expenses incurred by the
4 court in connection with the establishment, implementation, or
5 operation of the traffic amnesty program established under
6 IC 9-33-4. Funds appropriated to defray court expenses under this
7 subsection may be used only to supplement court funding and may
8 not be used to replace other court funding. This subsection expires
9 July 1, 2021.

