

HOUSE BILL No. 1167

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-37; IC 36-2-21; IC 36-4-14.

Synopsis: Local court security fees. Allows a county, city, or town to adopt an ordinance to establish a \$2 local court security fee to be collected in each action in which a person is required to pay: (1) a criminal costs fee; or (2) a civil costs fee. Specifies that the revenue provided to a county, city, or town from a local court security fee may be used only to pay for the costs of installing, operating, maintaining, and upgrading security measures, plans, procedures, and systems in and around: (1) courtrooms; and (2) buildings that contain courtrooms; located in the county, city, or town.

Effective: July 1, 2016.

Cherry, Brown T

January 7, 2016, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1167

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 33-37-5-34 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 34. (a) This section applies only if the legislative body**
4 **of:**

- 5 (1) **a county has established a local court security fee under**
- 6 **IC 36-2-21; or**
- 7 (2) **a city or town has established a local court security fee**
- 8 **under IC 36-4-14.**
- 9 (b) **In each action in which a person is required to pay:**
- 10 (1) **a criminal costs fee under IC 33-37-4-1; or**
- 11 (2) **a civil costs fee under IC 33-37-4-4;**
- 12 **the clerk shall collect a court security fee of two dollars (\$2).**

13 SECTION 2. IC 33-37-7-2, AS AMENDED BY P.L.213-2015,
14 SECTION 259, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2016]: **Sec. 2. (a) The clerk of a circuit court**
16 **shall distribute semiannually to the auditor of state as the state share for**
17 **deposit in the homeowner protection unit account established by**



1 IC 4-6-12-9 one hundred percent (100%) of the automated record
2 keeping fees collected under IC 33-37-5-21 with respect to actions
3 resulting in the accused person entering into a pretrial diversion
4 program agreement under IC 33-39-1-8 or a deferral program
5 agreement under IC 34-28-5-1 and for deposit in the state general fund
6 seventy percent (70%) of the amount of 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 33-37-4-3(a) (juvenile costs fees).
- 11 (4) IC 33-37-4-4(a) (civil costs fees).
- 12 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 13 (6) IC 33-37-4-7(a) (probate costs fees).
- 14 (7) IC 33-37-5-17 (deferred prosecution fees).

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

- 18 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
19 interdiction, and correction fees collected under
20 IC 33-37-4-1(b)(5).
- 21 (2) Twenty-five percent (25%) of the alcohol and drug
22 countermeasures fees collected under IC 33-37-4-1(b)(6),
23 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 24 (3) One hundred percent (100%) of the child abuse prevention
25 fees collected under IC 33-37-4-1(b)(7).
- 26 (4) One hundred percent (100%) of the domestic violence
27 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- 28 (5) One hundred percent (100%) of the highway work zone fees
29 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 30 (6) One hundred percent (100%) of the safe schools fee collected
31 under IC 33-37-5-18.
- 32 (7) One hundred percent (100%) of the automated record keeping
33 fee collected under IC 33-37-5-21 not distributed under
34 subsection (a).

35 (c) The clerk of a circuit court shall distribute monthly to the county
36 auditor the following:

- 37 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
38 interdiction, and correction fees collected under
39 IC 33-37-4-1(b)(5).
- 40 (2) Seventy-five percent (75%) of the alcohol and drug
41 countermeasures fees collected under IC 33-37-4-1(b)(6),
42 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).



1 The county auditor shall deposit fees distributed by a clerk under this
2 subsection into the county drug free community fund established under
3 IC 5-2-11.

4 (d) The clerk of a circuit court shall distribute monthly to the county
5 auditor one hundred percent (100%) of the late payment fees collected
6 under IC 33-37-5-22. The county auditor shall deposit fees distributed
7 by a clerk under this subsection as follows:

8 (1) If directed to do so by an ordinance adopted by the county
9 fiscal body, the county auditor shall deposit forty percent (40%)
10 of the fees in the clerk's record perpetuation fund established
11 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
12 county general fund.

13 (2) If the county fiscal body has not adopted an ordinance
14 described in subdivision (1), the county auditor shall deposit all
15 the fees in the county general fund.

16 (e) The clerk of the circuit court shall distribute semiannually to the
17 auditor of state for deposit in the sexual assault victims assistance
18 account established by IC 5-2-6-23(h) one hundred percent (100%) of
19 the sexual assault victims assistance fees collected under
20 IC 33-37-5-23.

21 (f) The clerk of a circuit court shall distribute monthly to the county
22 auditor the following:

23 (1) One hundred percent (100%) of the support and maintenance
24 fees for cases designated as non-Title IV-D child support cases in
25 the Indiana support enforcement tracking system (ISETS) or the
26 successor statewide automated support enforcement system
27 collected under IC 33-37-5-6.

28 (2) The percentage share of the support and maintenance fees for
29 cases designated as Title IV-D child support cases in ISETS or the
30 successor statewide automated support enforcement system
31 collected under IC 33-37-5-6 that is reimbursable to the county at
32 the federal financial participation rate.

33 The county clerk shall distribute monthly to the department of child
34 services the percentage share of the support and maintenance fees for
35 cases designated as Title IV-D child support cases in ISETS, or the
36 successor statewide automated support enforcement system, collected
37 under IC 33-37-5-6 that is not reimbursable to the county at the
38 applicable federal financial participation rate.

39 (g) The clerk of a circuit court shall distribute monthly to the county
40 auditor the following:

41 (1) One hundred percent (100%) of the small claims service fee
42 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in



1 the county general fund.

2 (2) One hundred percent (100%) of the small claims garnishee
3 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for
4 deposit in the county general fund.

5 (h) This subsection does not apply to court administration fees
6 collected in small claims actions filed in a court described in IC 33-34.
7 The clerk of a circuit court shall semiannually distribute to the auditor
8 of state for deposit in the state general fund one hundred percent
9 (100%) of the following:

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

12 (2) The judicial salaries fees collected under IC 33-37-5-26.

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

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

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

20 (j) The proceeds of the service fee collected under
21 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as
22 follows:

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

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

29 (k) The proceeds of the garnishee service fee collected under
30 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
31 follows:

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

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

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



1 (1) The mortgage foreclosure counseling and education fees
 2 collected under IC 33-37-5-33 (before its expiration on July 1,
 3 2017).

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

7 (m) The clerk of a circuit court shall distribute semiannually to the
 8 auditor of state one hundred percent (100%) of the pro bono legal
 9 services fees collected before July 1, 2017, under IC 33-37-5-31. The
 10 auditor of state shall transfer semiannually the pro bono legal services
 11 fees to the Indiana Bar Foundation (or a successor entity) as the entity
 12 designated to organize and administer the interest on lawyers trust
 13 accounts (IOLTA) program under Rule 1.15 of the Rules of
 14 Professional Conduct of the Indiana supreme court. The Indiana Bar
 15 Foundation shall:

16 (1) deposit in an appropriate account and otherwise manage the
 17 fees the Indiana Bar Foundation receives under this subsection in
 18 the same manner the Indiana Bar Foundation deposits and
 19 manages the net earnings the Indiana Bar Foundation receives
 20 from IOLTA accounts; and

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

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

29 **(n) The clerk of a circuit court shall distribute monthly to the**
 30 **county auditor one hundred percent (100%) of the local court**
 31 **security fees collected under IC 33-37-5-34 for deposit in the**
 32 **county general fund. These funds may be used only for the**
 33 **purposes described in IC 36-2-21-3.**

34 SECTION 3. IC 33-37-7-8, AS AMENDED BY P.L.213-2015,
 35 SECTION 260, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) The clerk of a city or town
 37 court shall distribute semiannually to the auditor of state as the state
 38 share for deposit in the homeowner protection unit account established
 39 by IC 4-6-12-9 one hundred percent (100%) of the automated record
 40 keeping fees collected under IC 33-37-5-21 with respect to actions
 41 resulting in the accused person entering into a pretrial diversion
 42 program agreement under IC 33-39-1-8 or a deferral program



1 agreement under IC 34-28-5-1 and for deposit in the state general fund
 2 fifty-five percent (55%) of the amount of fees collected under the
 3 following:

- 4 (1) IC 33-37-4-1(a) (criminal costs fees).
- 5 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 6 (3) IC 33-37-4-4(a) (civil costs fees).
- 7 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 8 (5) IC 33-37-5-17 (deferred prosecution fees).

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

- 12 (1) IC 33-37-4-1(a) (criminal costs fees).
- 13 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 14 (3) IC 33-37-4-4(a) (civil costs fees).
- 15 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 16 (5) IC 33-37-5-17 (deferred prosecution fees).

17 (c) The city or town fiscal officer shall retain twenty-five percent
 18 (25%) as the city or town share of the fees collected under the
 19 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 33-37-4-4(a) (civil costs fees).
- 23 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 24 (5) IC 33-37-5-17 (deferred prosecution fees).

25 (d) The clerk of a city or town court shall distribute semiannually to
 26 the auditor of state for deposit in the state user fee fund established in
 27 IC 33-37-9 the following:

- 28 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 29 interdiction, and correction fees collected under
 30 IC 33-37-4-1(b)(5).
- 31 (2) Twenty-five percent (25%) of the alcohol and drug
 32 countermeasures fees collected under IC 33-37-4-1(b)(6),
 33 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 34 (3) One hundred percent (100%) of the highway work zone fees
 35 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 36 (4) One hundred percent (100%) of the safe schools fee collected
 37 under IC 33-37-5-18.
- 38 (5) One hundred percent (100%) of the automated record keeping
 39 fee collected under IC 33-37-5-21 not distributed under
 40 subsection (a).

41 (e) The clerk of a city or town court shall distribute monthly to the
 42 county auditor the following:



- 1 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
2 interdiction, and corrections fees collected under
3 IC 33-37-4-1(b)(5).
- 4 (2) Seventy-five percent (75%) of the alcohol and drug
5 countermeasures fees collected under IC 33-37-4-1(b)(6),
6 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 7 The county auditor shall deposit fees distributed by a clerk under this
8 subsection into the county drug free community fund established under
9 IC 5-2-11.
- 10 (f) The clerk of a city or town court shall distribute monthly to the
11 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
12 percent (100%) of the following:
- 13 (1) The late payment fees collected under IC 33-37-5-22.
14 (2) The small claims service fee collected under
15 IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).
16 (3) The small claims garnishee service fee collected under
17 IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).
- 18 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
19 fees distributed by a clerk under this subsection in the city or town
20 general fund.
- 21 (g) The clerk of a city or town court shall semiannually distribute to
22 the auditor of state for deposit in the state general fund one hundred
23 percent (100%) of the following:
- 24 (1) The public defense administration fee collected under
25 IC 33-37-5-21.2.
26 (2) The DNA sample processing fees collected under
27 IC 33-37-5-26.2.
28 (3) The court administration fees collected under IC 33-37-5-27.
- 29 (h) The clerk of a city or town court shall semiannually distribute to
30 the auditor of state for deposit in the judicial branch insurance
31 adjustment account established by IC 33-38-5-8.2 one hundred percent
32 (100%) of the judicial insurance adjustment fee collected under
33 IC 33-37-5-25.
- 34 (i) The clerk of a city or town court shall semiannually distribute to
35 the auditor of state for deposit in the state general fund seventy-five
36 percent (75%) of the judicial salaries fee collected under
37 IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
38 percent (25%) of the judicial salaries fee collected under
39 IC 33-37-5-26. The funds retained by the city or town shall be
40 prioritized to fund city or town court operations.
- 41 (j) The clerk of a city or town court shall distribute semiannually to
42 the auditor of state one hundred percent (100%) of the pro bono legal



1 services fees collected before July 1, 2017, under IC 33-37-5-31. The
 2 auditor of state shall transfer semiannually the pro bono legal services
 3 fees to the Indiana Bar Foundation (or a successor entity) as the entity
 4 designated to organize and administer the interest on lawyers trust
 5 accounts (IOLTA) program under Rule 1.15 of the Rules of
 6 Professional Conduct of the Indiana supreme court. The Indiana Bar
 7 Foundation shall:

8 (1) deposit in an appropriate account and otherwise manage the
 9 fees the Indiana Bar Foundation receives under this subsection in
 10 the same manner the Indiana Bar Foundation deposits and
 11 manages the net earnings the Indiana Bar Foundation receives
 12 from IOLTA accounts; and

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

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

21 **(k) The clerk of a city or town court shall distribute monthly to**
 22 **the city or town fiscal officer (as defined in IC 36-1-2-7) one**
 23 **hundred percent (100%) of the local court security fees collected**
 24 **under IC 33-37-5-34 for deposit in the city or town general fund.**
 25 **These funds may be used only for the purposes described in**
 26 **IC 36-4-14-3.**

27 SECTION 4. IC 36-2-21 IS ADDED TO THE INDIANA CODE AS
 28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2016]:

30 **Chapter 21. Courthouse Security**

31 **Sec. 1. This chapter does not apply to a county containing a**
 32 **consolidated city.**

33 **Sec. 2. The legislative body of a county may adopt an ordinance**
 34 **establishing a two dollar (\$2) local court security fee to be collected**
 35 **in each action in which a person is required to pay:**

36 (1) a criminal costs fee under IC 33-37-4-1; or

37 (2) a civil costs fee under IC 33-37-4-4;

38 as provided under IC 33-37-5-34.

39 **Sec. 3. Proceeds from the local court security fee may be used**
 40 **only to pay for the costs of installing, operating, maintaining, and**
 41 **upgrading security measures, plans, procedures, and systems in**
 42 **and around:**



1 **(1) courtrooms; and**
 2 **(2) buildings that contain courtrooms;**
 3 **located in the county.**

4 SECTION 5. IC 36-4-14 IS ADDED TO THE INDIANA CODE AS
 5 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2016]:

7 **Chapter 14. Courthouse Security**

8 **Sec. 1. This chapter does not apply to a consolidated city.**

9 **Sec. 2. The legislative body of a city or town may adopt an**
 10 **ordinance establishing a two dollar (\$2) local court security fee to**
 11 **be collected in each action in which a person is required to pay:**

12 **(1) a criminal costs fee under IC 33-37-4-1; or**

13 **(2) a civil costs fee under IC 33-37-4-4;**

14 **as provided under IC 33-37-5-34.**

15 **Sec. 3. Proceeds from the local court security fee may be used**
 16 **only to pay for the costs of installing, operating, maintaining, and**
 17 **upgrading security measures, plans, procedures, and systems in**
 18 **and around:**

19 **(1) courtrooms; and**

20 **(2) buildings that contain courtrooms;**

21 **located in the city or town.**

