

# HOUSE BILL No. 1251

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-40-2-1; IC 33-37; IC 35-38.

**Synopsis:** Court fees. Provides that the clerk of a court shall collect a \$5 fee for a certificate under seal attached in authentication of a copy of any record, paper, or transcript. (Under current law, the fee is \$1.) Specifies that fees collected for a certificate under seal attached in authentication of a copy of any record, paper, or transcript are deposited into the clerk's record perpetuation fund (fund). Provides that a clerk shall, on the fifth day of each month, distribute 50% of the fee collected for a certificate under seal attached in authentication of a copy of any record, paper, or transcript in the previous calendar month to the county auditor for deposit into the county general fund. Provides that the sheriff, as opposed to the clerk, collects the \$60 fee for out-of-state service. Specifies that a sheriff may collect a service of process fee one time for out-of-state service and may not collect an additional service of process fee for any out-of-state postjudgment service. Provides that a clerk shall keep 3% of collected probation user's fees to defray the clerk's administrative costs. (Under current law, the clerk may, but is not required to, keep 3% of collected probation user's fees.) Authorizes a clerk to collect a home detention fee and keep not more than 3% of the fee to defray the administrative costs of collecting the fee. Specifies that the clerk shall deposit the fee in the fund. Establishes a process for a clerk to distribute the fee.

**Effective:** July 1, 2018.

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January 16, 2018, read first time and referred to Committee on Ways and Means.

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Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1251

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 31-40-2-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) Subject to  
3 IC 31-40-1-3, a juvenile court may order each delinquent child who  
4 receives supervision under IC 31-37-19 or the child's parent, guardian,  
5 or custodian to pay to either the probation department or the clerk of  
6 the court:

7 (1) an initial probation user's fee of at least twenty-five dollars  
8 (\$25) but not more than one hundred dollars (\$100);  
9 (2) a probation user's fee of at least ten dollars (\$10) but not more  
10 than twenty-five dollars (\$25) for each month the child receives  
11 supervision; and  
12 (3) an administrative fee of one hundred dollars (\$100) if the  
13 delinquent child is supervised by a juvenile probation officer.

14 (b) If a clerk of a court collects a probation user's fee, the clerk:  
15 (1) ~~may~~ **shall** keep not more than three percent (3%) of the fee to  
16 defray the administrative costs of collecting the fee and shall  
17 deposit any fee kept under this subsection ~~in~~ **into** the clerk's



1 record perpetuation fund established under IC 33-37-5-2; and  
2 (2) if requested to do so by the county auditor, city fiscal officer,  
3 or town fiscal officer under clause (A), (B), or (C), transfer not  
4 more than three percent (3%) of the fee to the:

5 (A) county auditor who shall deposit the money transferred  
6 under this subdivision into the county general fund;

7 (B) city general fund when requested by the city fiscal officer;

8 or

9 (C) town general fund when requested by the town fiscal  
10 officer.

11 (c) The probation department or clerk shall collect the  
12 administrative fee under subsection (a)(3) before collecting any other  
13 fee under subsection (a). The probation department or the clerk shall  
14 deposit the probation user's fees and the administrative fees paid under  
15 subsection (a) into the county supplemental juvenile probation services  
16 fund.

17 (d) In addition to other methods of payment allowed by law, a  
18 probation department may accept payment of fees required under this  
19 section and section 1.5 of this chapter by credit card (as defined in  
20 IC 14-11-1-7). The liability for payment is not discharged until the  
21 probation department receives payment or credit from the institution  
22 responsible for making the payment or credit.

23 (e) The probation department may contract with a bank or credit  
24 card vendor for acceptance of bank or credit cards. However, if there  
25 is a vendor transaction charge or discount fee, whether billed to the  
26 probation department or charged directly to the probation department's  
27 account, the probation department may collect a credit card service fee  
28 from the person using the bank or credit card. The fee collected under  
29 this subsection is a permitted additional charge to the money the  
30 probation department is required to collect under subsection (a).

31 (f) The probation department shall deposit the credit card service  
32 fees collected under subsection (e) into the county supplemental  
33 juvenile probation services fund. These funds may be used without  
34 appropriation to pay the transaction charge or discount fee charged by  
35 the bank or credit card vendor.

36 SECTION 2. IC 33-37-5-2, AS AMENDED BY P.L.149-2016,  
37 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2018]: Sec. 2. (a) Each clerk shall establish a clerk's record  
39 perpetuation fund. The clerk shall deposit all the following in the fund:

40 (1) Revenue received by the clerk for transmitting documents by  
41 facsimile machine to a person under IC 5-14-3.

42 (2) Document storage fees required under section 20 of this



- 1 chapter.
- 2 (3) The late payment fees imposed under section 22 of this
- 3 chapter that are authorized for deposit in the clerk's record
- 4 perpetuation fund under IC 33-37-7-2.
- 5 (4) The fees required under IC 29-1-7-3.1 for deposit of a will.
- 6 (5) Fees for preparing a transcript or copy of any record under
- 7 section 1 of this chapter.
- 8 **(6) Fees collected under section 3 of this chapter.**
- 9 (b) The clerk may use any money in the fund for the following
- 10 purposes:
- 11 (1) The preservation of records.
- 12 (2) The improvement of record keeping systems and equipment.
- 13 (3) Case management system.
- 14 SECTION 3. IC 33-37-5-3 IS AMENDED TO READ AS
- 15 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. Notwithstanding
- 16 IC 5-14-3, the clerk shall collect a document fee of ~~one dollar (\$1)~~ **five**
- 17 **dollars (\$5)** for each certificate under seal attached in authentication
- 18 of a copy of any record, paper, or transcript.
- 19 SECTION 4. IC 33-37-5-15, AS AMENDED BY P.L.255-2017,
- 20 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2018]: Sec. 15. (a) The clerk shall collect a service of process
- 22 fee of twenty-eight dollars (\$28) from a party requesting service of a
- 23 writ, an order, a process, a notice, a tax warrant, or any other paper
- 24 completed by the sheriff. A service of process fee ~~collected~~ **imposed**
- 25 under this subsection may be collected only one (1) time per case for
- 26 the duration of the case. However, a clerk may ~~collect~~ **impose**
- 27 an additional service of process fee of twenty-eight dollars (\$28) per case
- 28 for any postjudgment service.
- 29 (b) The ~~clerk~~ **sheriff** shall collect from the person who filed the civil
- 30 action a service of process fee of sixty dollars (\$60), in addition to any
- 31 other fee for service of process, if:
- 32 (1) a person files a civil action outside Indiana; and
- 33 (2) a sheriff in Indiana is requested to perform a service of
- 34 process associated with the civil action in Indiana.
- 35 **The service of process fee imposed under this subsection may be**
- 36 **collected only one (1) time per case for the duration of the case. An**
- 37 **additional fee may not be imposed under this subsection for any**
- 38 **postjudgment service.**
- 39 (c) A clerk shall transfer fees collected under this section to the
- 40 county auditor of the county in which the sheriff has jurisdiction.
- 41 (d) The county auditor shall deposit fees collected under this section
- 42 as follows:



1 (1) One dollar (\$1) from each service of process fee described in  
 2 subsection (a) into the clerk's record perpetuation fund established  
 3 by the clerk under section 2 of this chapter.

4 (2) Twenty-seven dollars (\$27) from each service of process fee  
 5 described in subsection (a) into either:

6 (A) the pension trust established by the county under  
 7 IC 36-8-10-12; or

8 (B) if the county has not established a pension trust under  
 9 IC 36-8-10-12, the county general fund.

10 SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.39-2017,  
 11 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2018]: Sec. 2. (a) The clerk of a circuit court shall distribute  
 13 semiannually to the auditor of state as the state share for deposit in the  
 14 homeowner protection unit account established by IC 4-6-12-9 one  
 15 hundred percent (100%) of the automated record keeping fees collected  
 16 under IC 33-37-5-21 with respect to actions resulting in the accused  
 17 person entering into a pretrial diversion program agreement under  
 18 IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and  
 19 for deposit in the state general fund seventy percent (70%) of the  
 20 amount of fees collected under the following:

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

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

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

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

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

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

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

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

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

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

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

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

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



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



1 collected under IC 33-37-5-6 that is reimbursable to the county at  
2 the federal financial participation rate.

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

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

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

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

17 (h) This subsection does not apply to court administration fees  
18 collected in small claims actions filed in a court described in IC 33-34.  
19 The clerk of a circuit court shall semiannually distribute to the auditor  
20 of state for deposit in the state general fund one hundred percent  
21 (100%) of the following:

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

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

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

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

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

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

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

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

41 (k) The proceeds of the garnishee service fee collected under  
42 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as



- 1 follows:
- 2 (1) The clerk shall distribute one hundred percent (100%) of the
- 3 garnishee service fees collected in a circuit, superior, county, or
- 4 probate court to the county auditor for deposit in the county
- 5 general fund.
- 6 (2) The clerk shall distribute one hundred percent (100%) of the
- 7 garnishee service fees collected in a city or town court to the city
- 8 or town fiscal officer for deposit in the city or town general fund.
- 9 (l) The clerk of the circuit court shall distribute semiannually to the
- 10 auditor of state for deposit in the home ownership education account
- 11 established by IC 5-20-1-27 one hundred percent (100%) of the
- 12 following:
- 13 (1) The mortgage foreclosure counseling and education fees
- 14 collected under IC 33-37-5-33 (before its expiration on July 1,
- 15 2017).
- 16 (2) Any civil penalties imposed and collected by a court for a
- 17 violation of a court order in a foreclosure action under
- 18 IC 32-30-10.5.
- 19 (m) The clerk of a circuit court shall distribute semiannually to the
- 20 auditor of state one hundred percent (100%) of the pro bono legal
- 21 services fees collected before July 1, 2022, under IC 33-37-5-31. The
- 22 auditor of state shall transfer semiannually the pro bono legal services
- 23 fees to the Indiana Bar Foundation (or a successor entity) as the entity
- 24 designated to organize and administer the interest on lawyers trust
- 25 accounts (IOLTA) program under Rule 1.15 of the Rules of
- 26 Professional Conduct of the Indiana supreme court. The Indiana Bar
- 27 Foundation shall:
- 28 (1) deposit in an appropriate account and otherwise manage the
- 29 fees the Indiana Bar Foundation receives under this subsection in
- 30 the same manner the Indiana Bar Foundation deposits and
- 31 manages the net earnings the Indiana Bar Foundation receives
- 32 from IOLTA accounts; and
- 33 (2) use the fees the Indiana Bar Foundation receives under this
- 34 subsection to assist or establish approved pro bono legal services
- 35 programs.
- 36 The handling and expenditure of the pro bono legal services fees
- 37 received under this section by the Indiana Bar Foundation (or its
- 38 successor entity) are subject to audit by the state board of accounts. The
- 39 amounts necessary to make the transfers required by this subsection are
- 40 appropriated from the state general fund.
- 41 **(n) The clerk of a circuit court shall, on the fifth day of each**
- 42 **month, distribute fifty percent (50%) of the fees collected under**





1 **IC 33-37-5-3 in the previous calendar month to the county auditor**  
 2 **for deposit into the county general fund.**

3 SECTION 6. IC 35-38-2-1, AS AMENDED BY P.L.119-2012,  
 4 SECTION 166, IS AMENDED TO READ AS FOLLOWS  
 5 [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) Whenever it places a person  
 6 on probation, the court shall:

- 7 (1) specify in the record the conditions of the probation; and  
 8 (2) advise the person that if the person violates a condition of  
 9 probation during the probationary period, a petition to revoke  
 10 probation may be filed before the earlier of the following:

11 (A) One (1) year after the termination of probation.

12 (B) Forty-five (45) days after the state receives notice of the  
 13 violation.

14 (b) In addition, if the person was convicted of a felony and is placed  
 15 on probation, the court shall order the person to pay to the probation  
 16 department the user's fee prescribed under subsection (d). If the person  
 17 was convicted of a misdemeanor, the court may order the person to pay  
 18 the user's fee prescribed under subsection (e). The court may:

19 (1) modify the conditions (except a fee payment may only be  
 20 modified as provided in section 1.7(b) of this chapter); or

21 (2) terminate the probation;

22 at any time. If the person commits an additional crime, the court may  
 23 revoke the probation.

24 (c) If a clerk of a court collects a probation user's fee, the clerk:

25 (1) ~~may~~ **shall** keep not more than three percent (3%) of the fee to  
 26 defray the administrative costs of collecting the fee and shall  
 27 deposit any fee kept under this subsection ~~in~~ **into** the clerk's  
 28 record perpetuation fund established under IC 33-37-5-2; and

29 (2) if requested to do so by the county auditor, city fiscal officer,  
 30 or town fiscal officer under clause (A), (B), or (C), may transfer  
 31 not more than three percent (3%) of the fee to the:

32 (A) county auditor, who shall deposit the money transferred  
 33 under this subdivision into the county general fund;

34 (B) city general fund when requested by the city fiscal officer;  
 35 or

36 (C) town general fund when requested by the town fiscal  
 37 officer.

38 (d) In addition to any other conditions of probation, the court shall  
 39 order each person convicted of a felony to pay:

40 (1) not less than twenty-five dollars (\$25) nor more than one  
 41 hundred dollars (\$100) as an initial probation user's fee;

42 (2) a monthly probation user's fee of not less than fifteen dollars



1 (\$15) nor more than thirty dollars (\$30) for each month that the  
2 person remains on probation;

3 (3) the costs of the laboratory test or series of tests to detect and  
4 confirm the presence of the human immunodeficiency virus (HIV)  
5 antigen or antibodies to the human immunodeficiency virus (HIV)  
6 if such tests are required by the court under section 2.3 of this  
7 chapter;

8 (4) an alcohol abuse deterrent fee and a medical fee set by the  
9 court under IC 9-30-9-8, if the court has referred the defendant to  
10 an alcohol abuse deterrent program; and

11 (5) an administrative fee of one hundred dollars (\$100);  
12 to either the probation department or the clerk.

13 (e) In addition to any other conditions of probation, the court may  
14 order each person convicted of a misdemeanor to pay:

15 (1) not more than a fifty dollar (\$50) initial probation user's fee;  
16 (2) a monthly probation user's fee of not less than ten dollars  
17 (\$10) nor more than twenty dollars (\$20) for each month that the  
18 person remains on probation;

19 (3) the costs of the laboratory test or series of tests to detect and  
20 confirm the presence of the human immunodeficiency virus (HIV)  
21 antigen or antibodies to the human immunodeficiency virus (HIV)  
22 if such tests are required by the court under section 2.3 of this  
23 chapter; and

24 (4) an administrative fee of fifty dollars (\$50);  
25 to either the probation department or the clerk.

26 (f) The probation department or clerk shall collect the  
27 administrative fees under subsections (d)(5) and (e)(4) before  
28 collecting any other fee under subsection (d) or (e). All money  
29 collected by the probation department or the clerk under this section  
30 shall be transferred to the county treasurer, who shall deposit the  
31 money into the county supplemental adult probation services fund. The  
32 fiscal body of the county shall appropriate money from the county  
33 supplemental adult probation services fund:

34 (1) to the county, superior, circuit, or municipal court of the  
35 county that provides probation services to adults to supplement  
36 adult probation services; and

37 (2) to supplement the salaries of probation officers in accordance  
38 with the schedule adopted by the county fiscal body under  
39 IC 36-2-16.5.

40 (g) The probation department or clerk shall collect the  
41 administrative fee under subsection (e)(4) before collecting any other  
42 fee under subsection (e). All money collected by the probation



1 department or the clerk of a city or town court under this section shall  
2 be transferred to the fiscal officer of the city or town for deposit into  
3 the local supplemental adult probation services fund. The fiscal body  
4 of the city or town shall appropriate money from the local supplemental  
5 adult probation services fund to the city or town court of the city or  
6 town for the court's use in providing probation services to adults or for  
7 the court's use for other purposes as may be appropriated by the fiscal  
8 body. Money may be appropriated under this subsection only to those  
9 city or town courts that have an adult probation services program. If a  
10 city or town court does not have such a program, the money collected  
11 by the probation department must be transferred and appropriated as  
12 provided under subsection (f).

13 (h) Except as provided in subsection (j), the county or local  
14 supplemental adult probation services fund may be used only to  
15 supplement probation services and to supplement salaries for probation  
16 officers. A supplemental probation services fund may not be used to  
17 replace other funding of probation services. Any money remaining in  
18 the fund at the end of the year does not revert to any other fund but  
19 continues in the county or local supplemental adult probation services  
20 fund.

21 (i) A person placed on probation for more than one (1) crime:

22 (1) may be required to pay more than one (1) initial probation  
23 user's fee; and

24 (2) may not be required to pay more than one (1) monthly  
25 probation user's fee per month;

26 to the probation department or the clerk.

27 (j) This subsection applies to a city or town located in a county  
28 having a population of more than one hundred eighty-five thousand  
29 (185,000) but less than two hundred fifty thousand (250,000). Any  
30 money remaining in the local supplemental adult probation services  
31 fund at the end of the local fiscal year may be appropriated by the city  
32 or town fiscal body to the city or town court for use by the court for  
33 purposes determined by the fiscal body.

34 (k) In addition to other methods of payment allowed by law, a  
35 probation department may accept payment of fees required under this  
36 section and section 1.5 of this chapter by credit card (as defined in  
37 IC 14-11-1-7). The liability for payment is not discharged until the  
38 probation department receives payment or credit from the institution  
39 responsible for making the payment or credit.

40 (l) The probation department may contract with a bank or credit  
41 card vendor for acceptance of bank or credit cards. However, if there  
42 is a vendor transaction charge or discount fee, whether billed to the



1 probation department or charged directly to the probation department's  
 2 account, the probation department may collect a credit card service fee  
 3 from the person using the bank or credit card. The fee collected under  
 4 this subsection is a permitted additional charge to the money the  
 5 probation department is required to collect under subsection (d) or (e).

6 (m) The probation department shall forward the credit card service  
 7 fees collected under subsection (l) to the county treasurer or city or  
 8 town fiscal officer in accordance with subsection (f) or (g). These funds  
 9 may be used without appropriation to pay the transaction charge or  
 10 discount fee charged by the bank or credit card vendor.

11 SECTION 7. IC 35-38-2.5-5.5, AS AMENDED BY P.L.48-2008,  
 12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2018]: Sec. 5.5. (a) Except as provided in subsection (b), a  
 14 court in one (1) county may not place an offender who resides in  
 15 another county on home detention in the other county unless:

16 (1) the offender is eligible for home detention in the county in  
 17 which the person resides; and

18 (2) supervision of the offender will be conducted by the probation  
 19 department or community corrections program located in the  
 20 county in which the offender resides.

21 (b) If the offender described in subsection (a) resides in a county  
 22 that is adjacent to the county in which the sentencing court is located,  
 23 the supervision of the offender may be conducted by either the:

24 (1) probation department; or

25 (2) community corrections program;

26 located in the county in which the sentencing court is located.

27 (c) **Except as provided in section 8(d) of this chapter**, all home  
 28 detention fees described in section 8 of this chapter shall be collected  
 29 by the probation department or community corrections program that  
 30 supervises the offender.

31 (d) A probation department or community corrections program that  
 32 supervises an offender on home detention is responsible for the  
 33 expenses of the supervision.

34 SECTION 8. IC 35-38-2.5-8 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) All home  
 36 detention fees collected by a county based probation department shall  
 37 be transferred to the county treasurer who shall deposit the fees into the  
 38 county supplemental adult or juvenile probation services fund. The  
 39 expenses of administering a home detention program, including the  
 40 purchase of monitoring devices and other supervision expenses shall  
 41 be paid from the fund.

42 (b) All home detention fees collected by the probation department



1 of a city or town court shall be transferred to the fiscal officer of the  
 2 city or town who shall deposit the fees into the local supplemental adult  
 3 or juvenile probation services fund. The expenses of administering a  
 4 home detention program, including the purchase of monitoring devices  
 5 and other supervision expenses shall be paid from the fund.

6 (c) All home detention fees collected by a community corrections  
 7 program, except any funds received by a community corrections  
 8 program under IC 11-12, shall be deposited into the community  
 9 corrections home detention fund established for the county under  
 10 IC 11-12-7-1. The expenses of administering a community corrections  
 11 home detention program, including the purchase of monitoring devices  
 12 and other supervision expenses shall be paid from the fund.

13 **(d) A clerk of a circuit court may collect a home detention fee on**  
 14 **behalf of a probation department or a community corrections**  
 15 **program that supervises an offender. A home detention fee**  
 16 **collected by the clerk must be distributed as follows:**

17 **(1) Not more than three percent (3%) to the clerk to defray**  
 18 **administrative costs of collecting the fee. The clerk shall**  
 19 **deposit any fee kept under this subdivision into the clerk's**  
 20 **record perpetuation fund established under IC 33-37-5-2.**

21 **(2) Not more than three percent (3%), upon request, to the**  
 22 **county auditor, city fiscal officer, or town fiscal officer for**  
 23 **deposit into the:**

24 **(A) county general fund, in the case of a county based**  
 25 **probation department or community corrections program;**

26 **(B) city general fund, in the case of a city court probation**  
 27 **department; or**

28 **(C) town general fund, in the case of a town court**  
 29 **probation department.**

30 **(3) The remainder of the fee to the appropriate county, city,**  
 31 **or town fiscal officer for deposit into the:**

32 **(A) county supplemental adult or juvenile probation**  
 33 **services fund, in the case of a fee collected on behalf of a**  
 34 **county based probation department;**

35 **(B) local supplemental adult or juvenile probation services**  
 36 **fund, in the case of a city or town court probation**  
 37 **department; or**

38 **(C) community corrections home detention fund**  
 39 **established for the county under IC 11-12-7-1, in the case**  
 40 **of a community corrections program.**

