

# HOUSE BILL No. 1369

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-6.8-6; IC 33-37.

**Synopsis:** Human trafficking. Requires a court to assess a human trafficking victims assistance fee against a person convicted of patronizing a prostitute if the prostitute is a victim of human trafficking. Specifies that the fee is: (1) \$1,000 if the prostitute is at least 18 years of age; and (2) \$1,500 if the prostitute is less than 18 years of age. Provides that funds collected from the human trafficking victims assistance fee shall be deposited in the family violence and victim assistance fund. (The family violence and victim assistance fund provides funding for domestic violence prevention and treatment, child abuse prevention, and victim and witness assistance programs.)

**Effective:** July 1, 2015.

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## Kirchhofer

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January 14, 2015, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

# HOUSE BILL No. 1369

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 5-2-6.8-6, AS ADDED BY P.L.130-2009,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 6. The sources of the fund include the following:  
4 (1) Amounts deposited under IC 33-37-7-9.  
5 (2) Amounts distributed from the state user fee fund under  
6 IC 33-37-9-4(a)(7).  
7 **(3) Amounts from the human trafficking victims assistance fee**  
8 **deposited under IC 33-37-7-2 and IC 33-37-7-8.**  
9 SECTION 2. IC 33-37-5-33 IS ADDED TO THE INDIANA CODE  
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
11 1, 2015]: **Sec. 33. (a) This section applies to criminal actions.**  
12 **(b) The court shall assess a human trafficking victims assistance**  
13 **fee against a person convicted of patronizing a prostitute**  
14 **(IC 35-45-4-3) if the court finds the prostitute is a victim of human**  
15 **or sexual trafficking under IC 35-42-3.5. The court must make the**



1 **determination under this subsection based on a preponderance of**  
 2 **the evidence. A conviction under IC 35-42-3.5 is not required for**  
 3 **the court to make a determination under this subsection.**

4 **(c) The human trafficking victims assistance fee is:**

5 **(1) one thousand dollars (\$1,000) if the prostitute is at least**  
 6 **eighteen (18) years of age; and**

7 **(2) one thousand five hundred dollars (\$1,500) if the prostitute**  
 8 **is less than eighteen (18) years of age.**

9 SECTION 3. IC 33-37-7-2, AS AMENDED BY P.L.284-2013,  
 10 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2015]: 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 work zone fees  
 41 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) The following:

3 (A) For a county operating under the state's automated judicial  
4 system, one hundred percent (100%) of the automated record  
5 keeping fee (IC 33-37-5-21) not distributed under subsection  
6 (a).

7 (B) This clause applies before July 1, 2013, and after June 30,  
8 2015. For a county not operating under the state's automated  
9 judicial system, eighty percent (80%) of the automated record  
10 keeping fee (IC 33-37-5-21) not distributed under subsection  
11 (a).

12 (C) This clause applies after June 30, 2013, and before July 1,  
13 2015. For a county not operating under the state's automated  
14 judicial system, five dollars (\$5) of the automated record  
15 keeping fee (IC 33-37-5-21) not distributed under subsection  
16 (a).

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

19 (1) Seventy-five percent (75%) of the drug abuse, prosecution,  
20 interdiction, and correction fees collected under  
21 IC 33-37-4-1(b)(5).

22 (2) Seventy-five percent (75%) of the alcohol and drug  
23 countermeasures fees collected under IC 33-37-4-1(b)(6),  
24 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

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

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

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

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

40 (e) The clerk of the circuit court shall distribute semiannually to the  
41 auditor of state for deposit in the sexual assault victims assistance  
42 account established by IC 5-2-6-23(h) one hundred percent (100%) of



1 the sexual assault victims assistance fees collected under  
2 IC 33-37-5-23.

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

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

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

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

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

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

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

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

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

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

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

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

40 (i) The clerk of a circuit court shall semiannually distribute to the  
41 auditor of state for deposit in the judicial branch insurance adjustment  
42 account established by IC 33-38-5-8.2 one hundred percent (100%) of



1 the judicial insurance adjustment fee collected under IC 33-37-5-25.

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

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

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

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

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

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

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

25 (1) The mortgage foreclosure counseling and education fees  
26 collected under IC 33-37-5-32 (before its expiration on January  
27 1, 2015).

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

31 (m) This subsection applies to a county that is not operating under  
32 the state's automated judicial system. The clerk of a circuit court shall  
33 distribute monthly to the county auditor the following part of the  
34 automated record keeping fee (IC 33-37-5-21) not distributed under  
35 subsection (a) for deposit in the clerk's record perpetuation fund:

36 (1) Twenty percent (20%), before July 1, 2013, and after June 30,  
37 2015.

38 (2) Two dollars (\$2) of each fee collected, after June 30, 2013,  
39 and before July 1, 2015.

40 (n) The clerk of a circuit court shall distribute semiannually to the  
41 auditor of state one hundred percent (100%) of the pro bono legal  
42 services fees collected before July 1, 2017, under IC 33-37-5-31. The



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

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

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

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

20 **(o) The clerk of a circuit court shall distribute semiannually to**  
 21 **the auditor of state one hundred percent (100%) of the human**  
 22 **trafficking victims assistance fee collected under IC 33-37-5-33 for**  
 23 **deposit in the family violence and victim assistance fund**  
 24 **established by IC 5-2-6.8-3.**

25 SECTION 4. IC 33-37-7-8, AS AMENDED BY P.L.136-2012,  
 26 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2015]: Sec. 8. (a) The clerk of a city or town court shall  
 28 distribute semiannually to the auditor of state as the state share for  
 29 deposit in the homeowner protection unit account established by  
 30 IC 4-6-12-9 one hundred percent (100%) of the automated record  
 31 keeping fees collected under IC 33-37-5-21 with respect to actions  
 32 resulting in the accused person entering into a pretrial diversion  
 33 program agreement under IC 33-39-1-8 or a deferral program  
 34 agreement under IC 34-28-5-1 and for deposit in the state general fund  
 35 fifty-five percent (55%) of the amount of fees collected under the  
 36 following:

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

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

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

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

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

42 (b) The city or town fiscal officer shall distribute monthly to the



1 county auditor as the county share twenty percent (20%) of the amount  
2 of fees collected under the following:

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

8 (c) The city or town fiscal officer shall retain twenty-five percent  
9 (25%) as the city or town share of the fees collected under the  
10 following:

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

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

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

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

- 33 (1) Seventy-five percent (75%) of the drug abuse, prosecution,  
34 interdiction, and corrections fees collected under  
35 IC 33-37-4-1(b)(5).  
36 (2) Seventy-five percent (75%) of the alcohol and drug  
37 countermeasures fees collected under IC 33-37-4-1(b)(6),  
38 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

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

42 (f) The clerk of a city or town court shall distribute monthly to the





1 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred  
2 percent (100%) of the following:

3 (1) The late payment fees collected under IC 33-37-5-22.

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

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

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

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

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

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

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

19 (h) The clerk of a city or town court shall semiannually distribute to  
20 the auditor of state for deposit in the judicial branch insurance  
21 adjustment account established by IC 33-38-5-8.2 one hundred percent  
22 (100%) of the judicial insurance adjustment fee collected under  
23 IC 33-37-5-25.

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

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

40 (1) deposit in an appropriate account and otherwise manage the  
41 fees the Indiana Bar Foundation receives under this subsection in  
42 the same manner the Indiana Bar Foundation deposits and



1 manages the net earnings the Indiana Bar Foundation receives  
2 from IOLTA accounts; and  
3 (2) use the fees the Indiana Bar Foundation receives under this  
4 subsection to assist or establish approved pro bono legal services  
5 programs.

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

11 **(k) The clerk of a city or town court shall distribute**  
12 **semiannually to the auditor of state one hundred percent (100%)**  
13 **of the human trafficking victims assistance fee collected under**  
14 **IC 33-37-5-33 for deposit in the family violence and victim**  
15 **assistance fund established by IC 5-2-6.8-3.**

