

HOUSE BILL No. 1388

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23-2-15; IC 9-13-2-121; IC 9-21; IC 33-37.

Synopsis: Automated traffic control in construction zones. Authorizes the state police department to establish an automated traffic control system pilot program to enforce highway worksite speed limits. Provides that a worksite speed limit violation recorded by an automated traffic control system may not be enforced unless the violation exceeds 11 miles per hour above the established worksite speed limit. Replaces the terms "work zone" and "worksite zone" with "worksite" throughout the relevant statutes.

Effective: July 1, 2021.

Moseley

January 14, 2021, read first time and referred to Committee on Roads and Transportation.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1388

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

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

- 1 SECTION 1. IC 8-23-2-15, AS AMENDED BY P.L.217-2014,
- 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2021]: Sec. 15. (a) As used in this section, "highway ~~work~~
- 4 ~~zone~~ **worksite**" means an area where:
- 5 (1) highway construction, reconstruction, or maintenance is
- 6 actually occurring; and
- 7 (2) notice is posted indicating that the highway ~~work zone~~
- 8 **worksite** is a specific area designated with signage on the
- 9 highway.
- 10 (b) The department may contract with the state police department
- 11 or local law enforcement agencies to hire off duty police officers to
- 12 patrol highway ~~work zones~~. **worksites**. The duties of a police officer
- 13 who is hired under this section:
- 14 (1) are limited to those duties that the police officer normally
- 15 performs while on active duty; and
- 16 (2) do not include the duties of a:
- 17 (A) flagman; or



- 1 (B) security officer.
- 2 (c) The department shall use the money transferred to the
3 department under IC 33-37-9-4(a)(6) to pay the costs of hiring off duty
4 police officers to perform the duties described in subsection (b).
- 5 (d) All money transferred to the department under
6 IC 33-37-9-4(a)(6) is annually appropriated to pay off duty police
7 officers to perform the duties described in subsection (b).
- 8 SECTION 2. IC 9-13-2-121, AS AMENDED BY P.L.164-2020,
9 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2021]: Sec. 121. (a) Except as otherwise provided in
11 ~~subsection~~ **subsections (b) and (c)**, "owner" means a person, other than
12 a lienholder, that:
- 13 (1) holds the property in or title to, as applicable, a vehicle,
14 manufactured home, mobile home, off-road vehicle, snowmobile,
15 or watercraft; or
- 16 (2) is entitled to the use or possession of, as applicable, a vehicle,
17 manufactured home, off-road vehicle, snowmobile, or watercraft,
18 through a lease or other agreement intended to operate as a
19 security.
- 20 (b) "Owner" for purposes of IC 9-18.1-14.5, has the meaning set
21 forth in 33 CFR 174.3.
- 22 **(c) For purposes of IC 9-21-3.7, "owner" has the meaning set
23 forth in IC 9-21-3.7-5.**
- 24 SECTION 3. IC 9-21-3.7 IS ADDED TO THE INDIANA CODE
25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2021]:
- 27 **Chapter 3.7. Automated Traffic Control System Pilot Program
28 to Enforce Worksite Speed Limits**
- 29 **Sec. 1. (a) This chapter does not apply to a road or bridge
30 maintained by or under a contract with the Indiana finance
31 authority.**
- 32 **(b) This chapter applies only to a part of a road or bridge on the
33 interstate system (as defined by IC 8-23-1-25) or a U.S. route.**
- 34 **Sec. 2. As used in this chapter, "automated traffic control
35 system" means a photographic device, radar device, laser device,
36 or other electrical or mechanical device or devices designed to:**
- 37 **(1) record the speed of a motor vehicle; and**
- 38 **(2) obtain a clear photograph or other recorded image of the
39 rear of the motor vehicle and the license plate affixed to the
40 motor vehicle at the time the recorded speed of the motor
41 vehicle exceeds a speed limit established under IC 9-21-5-11.**
- 42 **Sec. 3. As used in this chapter, "department" refers to the state**



1 police department established by IC 10-11-2-4.

2 Sec. 4. As used in this chapter, "motor vehicle rental company"
3 means a person that routinely engages in the business of renting
4 motor vehicles for periods of not more than thirty (30) days.

5 Sec. 5. As used in this chapter, "owner" means a person in
6 whose name a motor vehicle is registered under any of the
7 following:

- 8 (1) IC 9-18.1.
9 (2) The law of another state.
10 (3) The law of a foreign country.
11 (4) The International Registration Plan.

12 Sec. 6. As used in this chapter, "worksite" means any part of a
13 road or bridge on the interstate system (as defined by IC 8-23-1-25)
14 or a U.S. route on which the Indiana department of transportation
15 has established a speed limit under IC 9-21-5-11.

16 Sec. 7. (a) The department may establish an automated traffic
17 control system pilot program in a worksite. However, the
18 department may operate an automated traffic control system
19 installed under this subsection only when workers are present in
20 the worksite.

21 (b) The burden of proving that workers were present at the time
22 an automated traffic control system recorded a speed limit
23 violation is on the state in an action to enforce the alleged violation
24 recorded by the automated traffic control system.

25 Sec. 8. If the department establishes an automated traffic
26 control system under section 7 of this chapter, the department shall
27 do the following:

- 28 (1) Conduct a public information campaign to inform drivers
29 about the use of an automated traffic control system to
30 enforce worksite speed limits before implementing the
31 automated traffic control system.
32 (2) Post signs indicating that worksite speed limits are
33 enforced through an automated traffic control system before
34 the entrance to any worksite in which an automated traffic
35 control system is in use.
36 (3) Limit the operation of an automated traffic control system
37 to areas where workers are present and highway construction
38 or maintenance is occurring.

39 Sec. 9. (a) An automated traffic control system may not be used
40 to take a photograph or recorded image of the front of a motor
41 vehicle.

42 (b) A front view photograph or recorded image obtained



1 through the use of an automated traffic control system may not be
2 used as evidence in any action under this chapter.

3 **Sec. 10. (a) A photograph or recorded image obtained through**
4 **the use of an automated traffic control system may not be used as**
5 **evidence in any action other than the action to enforce a worksite**
6 **speed limit violation for which the photograph or recorded image**
7 **was obtained.**

8 **(b) Except by court order, a photograph or recorded image**
9 **obtained through the use of an automated traffic control system**
10 **may not be disclosed to anyone other than:**

11 **(1) the owner of the motor vehicle at the time the recorded**
12 **speed of the motor vehicle exceeded a speed limit established**
13 **under IC 9-21-5-11;**

14 **(2) the individual alleged to have been operating the motor**
15 **vehicle at the time of the worksite speed limit violation**
16 **described in subdivision (1);**

17 **(3) an attorney representing an individual described in**
18 **subdivision (1) or (2);**

19 **(4) a state police officer;**

20 **(5) the appropriate prosecuting attorney; and**

21 **(6) the court having jurisdiction over the alleged worksite**
22 **speed limit violation.**

23 **Sec. 11. (a) Except as provided in section 14 of this chapter, the**
24 **owner of a motor vehicle identified through an automated traffic**
25 **control system is liable for the penalty described in section 12 of**
26 **this chapter for violating a speed limit established under**
27 **IC 9-21-5-11.**

28 **(b) There is a rebuttable presumption that the owner of a motor**
29 **vehicle that is the subject of a photograph or recorded image was**
30 **operating the motor vehicle when the photograph or recorded**
31 **image was obtained through an automated traffic control system.**
32 **The presumption does not apply to the owner of a motor vehicle**
33 **that is the subject of a photograph or recorded image if the owner**
34 **of the motor vehicle is a motor vehicle rental company.**

35 **(c) The owner of a motor vehicle, including a motor vehicle**
36 **rental company, may submit the information described in section**
37 **14 of this chapter to rebut the presumption created by subsection**
38 **(b).**

39 **(d) It is a defense under this section if any of the following**
40 **apply:**

41 **(1) The person receiving a notice under section 13 of this**
42 **chapter was not the owner of the motor vehicle and was not**



1 driving the vehicle at the time of the violation.

2 (2) The vehicle was reported stolen prior to the time the
3 violation occurred and was not recovered prior to that time.

4 (3) The automated traffic control system was not properly
5 tested for accuracy, certification, or calibration.

6 Sec. 12. (a) A worksite speed limit established under
7 IC 9-21-5-11 may be enforced under this chapter if the automated
8 traffic control system indicates that the operator of a motor vehicle
9 has exceeded the worksite speed limit by at least eleven (11) miles
10 per hour.

11 (b) Except as provided in subsection (c)(1), a violation of a
12 worksite speed limit established under IC 9-21-5-11 that is detected
13 and enforced under this chapter is a Class B infraction.

14 (c) A person who commits a violation of a worksite speed limit
15 established under IC 9-21-5-11 that is detected and enforced under
16 this chapter is subject to the following:

17 (1) A written warning for the first time that the person
18 commits a violation detected and enforced under this chapter.

19 (2) A fine of seventy-five dollars (\$75) for the second time that
20 the person commits a violation detected and enforced under
21 this chapter.

22 (3) A fine of one hundred fifty dollars (\$150) for the third and
23 each subsequent time that the person commits a violation
24 detected and enforced under this chapter.

25 (d) Notwithstanding IC 34-28-5-5(c), a court that collects a fine
26 imposed under this section shall transfer the amount collected to
27 the treasurer of state for deposit in the fallen state trooper family
28 relief fund established by section 16 of this chapter.

29 Sec. 13. A person identified as the owner of the motor vehicle at
30 the time an automated traffic control system indicated that the
31 speed of the motor vehicle exceeded a speed limit established under
32 IC 9-21-5-11 is entitled to notice of the violation by first class mail
33 postmarked not later than fourteen (14) days after the date of the
34 alleged violation. The notice must include the following
35 information:

36 (1) The name and address of the owner of the motor vehicle.

37 (2) The license plate number of the motor vehicle.

38 (3) The violation charged.

39 (4) The location of the violation.

40 (5) The date and time of the violation.

41 (6) A copy of, and information on how to view through
42 electronic means, the photograph or recorded image of the



1 violation.

2 (7) The amount of the infraction and the amount of the fine
3 that may be imposed for the violation.

4 (8) The date by which the infraction and fine must be paid if
5 the owner of the motor vehicle:

6 (A) does not desire to contest the violation; and

7 (B) wishes to avoid paying court costs.

8 The infraction and fine must be paid not later than thirty (30)
9 days after the date the violation notice is issued if a defense
10 does not apply, or not later than forty-five (45) days after the
11 issuance date of the violation notice if a defense requires the
12 violation notice to be sent to another person.

13 (9) A statement that the photograph or recorded image of the
14 violation is prima facie evidence of a violation.

15 (10) The procedure under which the notice of violation may be
16 contested, and the procedure and conditions under which the
17 responsibility for payment of the fine may be transferred to
18 another individual who was operating the motor vehicle at the
19 time of the violation.

20 (11) Written verification that the automated traffic control
21 system was operating correctly at the time of the violation and
22 the date of the most recent inspection that confirms that the
23 automated traffic control system was operating properly.

24 Sec. 14. (a) The owner of a motor vehicle operated by another
25 individual at the time that an automated traffic control system
26 records the speed of the motor vehicle in excess of a speed limit
27 established under IC 9-21-5-11 is not liable for the violation of the
28 speed limit and is not required to pay the fine imposed for the
29 violation if the owner does the following:

30 (1) Responds to the notice of violation not more than thirty
31 (30) days after receiving the notice and submits to the court
32 an affidavit of nonliability stating that an individual other
33 than the owner of the motor vehicle had custody and control
34 of the motor vehicle at the time of the alleged violation.

35 (2) Provides the following information to the court about the
36 individual having custody and control of the motor vehicle at
37 the time of the alleged violation:

38 (A) The name and address of the individual.

39 (B) The individual's driver's license number.

40 (b) If the court finds by a preponderance of the evidence that an
41 individual other than the owner of the motor vehicle was operating
42 the motor vehicle at the time that an automated traffic control



1 system records the speed of the motor vehicle in excess of a speed
 2 limit established under IC 9-21-5-11, the court shall issue a traffic
 3 information and summons to the person found to be operating the
 4 motor vehicle for the violation of a speed limit established under
 5 IC 9-21-5-11.

6 **Sec. 15.** Before November 1 of each year, the department must
 7 submit a report to the interim study committee on roads and
 8 transportation established by IC 2-5-1.3-4 that includes the
 9 following:

10 (1) The number of motor vehicle accidents and related serious
 11 injuries and deaths that occurred in each worksite where an
 12 automated traffic control system was operated.

13 (2) Data related to the speed of motor vehicles traveling
 14 through a worksite where an automated traffic control system
 15 was operated.

16 (3) The number of violations issued in a worksite where an
 17 automated traffic control system was operated.

18 (4) The amount of fines imposed for violations occurring in a
 19 worksite where an automated traffic control system was
 20 operated.

21 **Sec. 16.** (a) The fallen state trooper family relief fund is
 22 established to provide short term assistance with food, housing,
 23 utilities, medical services, basic transportation, child care,
 24 education, employment or workforce, and other essential family
 25 support expenses that have become difficult to afford for the
 26 surviving family members of a state trooper killed in the line of
 27 duty.

28 (b) The fund consists of:

29 (1) money deposited into the fund under section 12 of this
 30 chapter;

31 (2) appropriations from the general assembly;

32 (3) grants, gifts, and donations intended for deposit in the
 33 fund; and

34 (4) interest deposited into the fund under subsection (c).

35 (c) The treasurer of state shall invest the money in the fund not
 36 currently needed to meet the obligations of the fund in the same
 37 manner as other public funds may be invested. Interest that
 38 accrues from these investments shall be deposited in the fund.

39 (d) The money in the fund at the end of a state fiscal year does
 40 not revert to the state general fund.

41 **Sec. 17.** (a) The department shall expend the money in the fallen
 42 state trooper family relief fund exclusively to provide grants for



1 assistance in accordance with section 16(a) of this chapter.

2 (b) The department shall give priority to applications for grants
3 for assistance from the fund to surviving family members who have
4 never received a grant under this section.

5 (c) Subject to the approval of the budget agency, the department
6 shall establish the maximum total dollar amount of grants that
7 may be expended in a state fiscal year. Once the maximum total
8 dollar amount of grants that may be expended in a state fiscal year
9 is reached, no additional grants may be authorized until the start
10 of the following state fiscal year.

11 (d) The department shall each year provide a report to the
12 budget committee concerning the grant program established under
13 this section.

14 SECTION 4. IC 9-21-4-20, AS ADDED BY P.L.40-2007,
15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2021]: Sec. 20. (a) For purposes of this section, "highway
17 ~~work zone~~ **worksite**" has the meaning set forth in IC 8-23-2-15.

18 (b) The Indiana department of transportation shall design and
19 manufacture or have manufactured signs that inform vehicle operators
20 of the offenses and penalties under:

- 21 (1) IC 9-21-5-11; and
22 (2) IC 9-21-8-56.

23 (c) A sign described in subsection (b) shall be posted at a reasonable
24 distance before a highway ~~work zone~~ **worksite** by:

- 25 (1) the Indiana department of transportation;
26 (2) a political subdivision; or
27 (3) a contractor of the:
28 (A) Indiana department of transportation; or
29 (B) political subdivision;

30 that is working at the highway ~~work zone~~ **worksite**.

31 A sign that is posted before a highway ~~work zone~~ **worksite** must be
32 posted in accordance with the Indiana Manual on Uniform Traffic
33 Control Devices or the Indiana Work Site Traffic Control Manual.

34 SECTION 5. IC 9-21-5-11, AS AMENDED BY P.L.41-2016,
35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2021]: Sec. 11. (a) Subject to subsection (b), the Indiana
37 department of transportation, the Indiana finance authority, or a local
38 authority may establish temporary maximum speed limits in their
39 respective jurisdictions and in the vicinity of a worksite without
40 conducting an engineering study and investigation required under this
41 article. The establishing authority shall post signs notifying the
42 traveling public of the temporary maximum speed limits established



- 1 under this section.
- 2 (b) Worksite speed limits set under this section must be at least ten
3 (10) miles per hour below the maximum established speed limit.
- 4 (c) A worksite speed limit set under this section may be enforced
5 ~~only if:~~ **as follows:**
- 6 (1) **If workers are present in the immediate vicinity of the**
7 **worksite. ~~or~~**
- 8 (2) **If workers are not present in the immediate vicinity of the**
9 **worksite, the establishing authority determines that the safety of**
10 **the traveling public requires enforcement of the worksite speed**
11 **limit.**
- 12 **(3) In the case of a worksite speed limit enforced through an**
13 **automated traffic control system under IC 9-21-3.7, if the**
14 **automated traffic control system indicates that the operator**
15 **of a motor vehicle has exceeded the worksite speed limit set**
16 **under this section by at least eleven (11) miles per hour.**
- 17 **(d) This subsection does not apply to a person whose violation**
18 **of a worksite speed limit is detected and enforced through an**
19 **automated traffic control system under IC 9-21-3.7.**
20 Notwithstanding IC 34-28-5-4(b), a judgment for the infraction of
21 violating a speed limit set under this section must be entered as
22 follows:
- 23 (1) **If the person has not previously committed the infraction of**
24 **violating a speed limit set under this section, a judgment for a**
25 **Class B infraction and a fine of at least three hundred dollars**
26 **(\$300) shall be imposed.**
- 27 (2) **If the person has committed one (1) infraction of violating a**
28 **speed limit set under this section in the previous three (3) years,**
29 **a judgment for a Class B infraction and a fine of at least five**
30 **hundred dollars (\$500) shall be imposed.**
- 31 (3) **If the person has committed two (2) or more infractions of**
32 **violating a speed limit set under this section in the previous three**
33 **(3) years, a judgment for a Class B infraction and a fine of one**
34 **thousand dollars (\$1,000) shall be imposed.**
- 35 **(e) This subsection does not apply to a person whose violation of**
36 **a worksite speed limit is detected and enforced through an**
37 **automated traffic control system under IC 9-21-3.7.**
38 Notwithstanding IC 34-28-5-5(c), the funds collected as judgments for
39 the infraction of violating a speed limit set under this section shall be
40 transferred to the Indiana department of transportation to pay the costs
41 of hiring off duty police officers to perform the duties described in
42 IC 8-23-2-15(b).



1 (f) **This subsection does not apply to a person whose violation of**
 2 **a worksite speed limit is detected and enforced through an**
 3 **automated traffic control system under IC 9-21-3.7.** If judgment has
 4 been imposed for committing two (2) infractions under this section
 5 within one (1) year, an additional penalty of the suspension of the
 6 driving privileges of the person who committed the infractions may be
 7 imposed by the court imposing the sentence for the second violation.
 8 If the court suspends a person's driving privileges under this
 9 subsection, the court shall issue an order to the bureau:

10 (1) stating that judgment against the person has been entered for
 11 committing the infraction of exceeding a worksite speed limit
 12 under this section for the second time in one (1) year; and

13 (2) ordering the suspension of the person's driving privileges by
 14 the bureau under IC 9-30-13-9.

15 The suspension of a person's driving privileges under this section is in
 16 addition to any other penalties imposed under this section and any fee
 17 imposed under IC 33-37-5-14.

18 SECTION 6. IC 9-21-8-56, AS AMENDED BY P.L.217-2014,
 19 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2021]: Sec. 56. (a) For purposes of this section, "highway
 21 ~~work zone~~ **worksite**" has the meaning set forth in IC 8-23-2-15.

22 (b) Except as provided in subsections (f) through (h), a person who
 23 recklessly operates a vehicle in the immediate vicinity of a highway
 24 ~~work zone~~ **worksite** when workers are present commits a Class A
 25 misdemeanor.

26 (c) Except as provided in subsections (f) through (h), a person who
 27 knowingly or intentionally operates a motor vehicle in the immediate
 28 vicinity of a highway ~~work zone~~ **worksite** when workers are present
 29 with the intent to:

30 (1) damage traffic control devices; or

31 (2) inflict bodily injury on a worker;

32 commits a Class A misdemeanor.

33 (d) Except as provided in subsections (f) through (h), a person who
 34 knowingly, intentionally, or recklessly engages in:

35 (1) aggressive driving, as defined in section 55 of this chapter; or

36 (2) a speed contest, as prohibited under IC 9-21-6-1;

37 in the immediate vicinity of a highway ~~work zone~~ **worksite** when
 38 workers are present commits a Class A misdemeanor.

39 (e) Except as provided in subsections (f) through (h), a person who
 40 recklessly fails to obey a traffic control device or flagman, as
 41 prohibited under section 41 of this chapter, in the immediate vicinity
 42 of a highway ~~work zone~~ **worksite** when workers are present commits



- 1 a Class A misdemeanor.
- 2 (f) An offense under subsection (b), (c), (d), or (e) is a Level 6
3 felony if the person who commits the offense:
- 4 (1) has a prior unrelated conviction under this section in the
5 previous five (5) years; or
- 6 (2) is operating the vehicle in violation of IC 9-30-5-1 or
7 IC 9-30-5-2.
- 8 (g) An offense under subsection (b), (c), (d), or (e) is a Level 6
9 felony if the offense results in bodily injury to a worker in the worksite.
- 10 (h) An offense under subsection (b), (c), (d), or (e) is a Level 5
11 felony if the offense results in the death of a worker in the worksite.
- 12 (i) A person who knowingly, intentionally, or recklessly engages in
13 an act described in section 55(b)(1), 55(b)(2), 55(b)(3), 55(b)(4),
14 55(b)(5), or 55(b)(6) of this chapter in the immediate vicinity of a
15 highway ~~work zone~~ **worksite** when workers are present commits a
16 Class B infraction. Notwithstanding IC 34-28-5-5(c), the funds
17 collected as judgments for an infraction under this subsection shall be
18 transferred to the Indiana department of transportation to pay the costs
19 of hiring off duty police officers to perform the duties described in
20 IC 8-23-2-15(b).
- 21 SECTION 7. IC 33-37-4-1, AS AMENDED BY P.L.24-2018,
22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2021]: Sec. 1. (a) For each action that results in a felony
24 conviction under IC 35-50-2 or a misdemeanor conviction under
25 IC 35-50-3, the clerk shall collect from the defendant a criminal costs
26 fee of one hundred twenty dollars (\$120).
- 27 (b) In addition to the criminal costs fee collected under this section,
28 the clerk shall collect from the defendant the following fees if they are
29 required under IC 33-37-5:
- 30 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
31 IC 33-37-5-4).
- 32 (2) A marijuana eradication program fee (IC 33-37-5-7).
- 33 (3) An alcohol and drug services program fee (IC 33-37-5-8(b)).
- 34 (4) A law enforcement continuing education program fee (IC
35 33-37-5-8(c)).
- 36 (5) A drug abuse, prosecution, interdiction, and correction fee (IC
37 33-37-5-9).
- 38 (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- 39 (7) A child abuse prevention fee (IC 33-37-5-12).
- 40 (8) A domestic violence prevention and treatment fee (IC
41 33-37-5-13).
- 42 (9) A highway worksite ~~zone~~ fee (IC 33-37-5-14).



- 1 (10) A deferred prosecution fee (IC 33-37-5-17).
 2 (11) A document storage fee (IC 33-37-5-20).
 3 (12) An automated record keeping fee (IC 33-37-5-21).
 4 (13) A late payment fee (IC 33-37-5-22).
 5 (14) A sexual assault victims assistance fee (IC 33-37-5-23).
 6 (15) A public defense administration fee (IC 33-37-5-21.2).
 7 (16) A judicial insurance adjustment fee (IC 33-37-5-25).
 8 (17) A judicial salaries fee (IC 33-37-5-26).
 9 (18) A court administration fee (IC 33-37-5-27).
 10 (19) A DNA sample processing fee (IC 33-37-5-26.2).
- 11 (c) Instead of the criminal costs fee prescribed by this section,
 12 except for the automated record keeping fee (IC 33-37-5-21), the clerk
 13 shall collect a pretrial diversion program fee if an agreement between
 14 the prosecuting attorney and the accused person entered into under
 15 IC 33-39-1-8 requires payment of those fees by the accused person.
 16 The pretrial diversion program fee is:
- 17 (1) an initial user's fee of fifty dollars (\$50) for a misdemeanor
 18 offense;
 19 (2) an initial user's fee of seventy-five dollars (\$75) for a felony
 20 offense;
 21 (3) a monthly user's fee of twenty dollars (\$20) for each month
 22 that the person remains in the pretrial diversion program; and
 23 (4) any additional program fee or cost that is:
 24 (A) reasonably related to the person's rehabilitation; and
 25 (B) approved by the court.
- 26 A monthly user fee may not be collected beyond the maximum length
 27 of the possible sentence.
- 28 (d) The clerk shall transfer to the county auditor or city or town
 29 fiscal officer the following fees, not later than thirty (30) days after the
 30 fees are collected:
- 31 (1) The pretrial diversion fee.
 32 (2) The marijuana eradication program fee.
 33 (3) The alcohol and drug services program fee.
 34 (4) The law enforcement continuing education program fee.
- 35 The auditor or fiscal officer shall deposit fees transferred under this
 36 subsection in the appropriate user fee fund established under
 37 IC 33-37-8.
- 38 (e) Unless otherwise directed by a court, if a clerk collects only part
 39 of a criminal costs fee from a defendant under this section, the clerk
 40 shall distribute the partial payment of the criminal costs fee as follows:
 41 (1) The clerk shall apply the partial payment to general court
 42 costs.



- 1 (2) If there is money remaining after the partial payment is
 2 applied to general court costs under subdivision (1), the clerk
 3 shall distribute the remainder of the partial payment for deposit in
 4 the appropriate county user fee fund.
- 5 (3) If there is money remaining after distribution under
 6 subdivision (2), the clerk shall distribute the remainder of the
 7 partial payment for deposit in the state user fee fund.
- 8 (4) If there is money remaining after distribution under
 9 subdivision (3), the clerk shall distribute the remainder of the
 10 partial payment to any other applicable user fee fund.
- 11 (5) If there is money remaining after distribution under
 12 subdivision (4), the clerk shall apply the remainder of the partial
 13 payment to any outstanding fines owed by the defendant.
- 14 SECTION 8. IC 33-37-4-2, AS AMENDED BY P.L.85-2017,
 15 SECTION 109, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) Except as provided in
 17 subsections (d) and (e), for each action that results in a judgment:
 18 (1) for a violation constituting an infraction; or
 19 (2) for a violation of an ordinance of a municipal corporation (as
 20 defined in IC 36-1-2-10);
 21 the clerk shall collect from the defendant an infraction or ordinance
 22 violation costs fee of seventy dollars (\$70).
- 23 (b) In addition to the infraction or ordinance violation costs fee
 24 collected under this section, the clerk shall collect from the defendant
 25 the following fees, if they are required under IC 33-37-5:
 26 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
 27 IC 33-37-5-4).
 28 (2) An alcohol and drug services program fee (IC 33-37-5-8(b)).
 29 (3) A law enforcement continuing education program fee (IC
 30 33-37-5-8(c)).
 31 (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
 32 (5) A highway worksite ~~zone~~ fee (IC 33-37-5-14).
 33 (6) A deferred prosecution fee (IC 33-37-5-17).
 34 (7) A jury fee (IC 33-37-5-19).
 35 (8) A document storage fee (IC 33-37-5-20).
 36 (9) An automated record keeping fee (IC 33-37-5-21).
 37 (10) A late payment fee (IC 33-37-5-22).
 38 (11) A public defense administration fee (IC 33-37-5-21.2).
 39 (12) A judicial insurance adjustment fee (IC 33-37-5-25).
 40 (13) A judicial salaries fee (IC 33-37-5-26).
 41 (14) A court administration fee (IC 33-37-5-27).
 42 (15) A DNA sample processing fee (IC 33-37-5-26.2).



1 (c) The clerk shall transfer to the county auditor or fiscal officer of
 2 the municipal corporation the following fees, not later than thirty (30)
 3 days after the fees are collected:

- 4 (1) The alcohol and drug services program fee (IC 33-37-5-8(b)).
 5 (2) The law enforcement continuing education program fee (IC
 6 33-37-5-8(c)).
 7 (3) The deferral program fee (subsection (e)).

8 The auditor or fiscal officer shall deposit the fees in the user fee fund
 9 established under IC 33-37-8.

10 (d) The defendant is not liable for any ordinance violation costs fee
 11 in an action if all the following apply:

- 12 (1) The defendant was charged with an ordinance violation
 13 subject to IC 33-36.
 14 (2) The defendant denied the violation under IC 33-36-3.
 15 (3) Proceedings in court against the defendant were initiated
 16 under IC 34-28-5 (or IC 34-4-32 before its repeal).
 17 (4) The defendant was tried and the court entered judgment for
 18 the defendant for the violation.

19 (e) Instead of the infraction or ordinance violation costs fee
 20 prescribed by subsection (a), except for the automated record keeping
 21 fee (IC 33-37-5-21), the clerk shall collect a deferral program fee if an
 22 agreement between a prosecuting attorney or an attorney for a
 23 municipal corporation and the person charged with a violation entered
 24 into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires
 25 payment of those fees by the person charged with the violation. The
 26 deferral program fee is:

- 27 (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
 28 (2) a monthly user's fee not to exceed ten dollars (\$10) for each
 29 month the person remains in the deferral program.

30 (f) The fees prescribed by this section are costs for purposes of
 31 IC 34-28-5-5 and may be collected from a defendant against whom
 32 judgment is entered. Any penalty assessed is in addition to costs.

33 SECTION 9. IC 33-37-5-14, AS AMENDED BY P.L.85-2013,
 34 SECTION 114, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2021]: Sec. 14. (a) This section applies to
 36 criminal, infraction, and ordinance violation actions that are traffic
 37 offenses (as defined in IC 9-13-2-183).

38 (b) The clerk shall collect a highway worksite ~~zone~~ fee of fifty cents
 39 (\$0.50). However, the clerk shall collect a highway worksite ~~zone~~ fee
 40 of twenty-five dollars and fifty cents (\$25.50) if:

- 41 (1) the criminal action, infraction, or ordinance violation is:
 42 (A) exceeding a worksite speed limit (as provided in



- 1 IC 9-21-5-2 and authorized by IC 9-21-5-3); or
 2 (B) failure to merge (as provided in IC 9-21-8-7.5); and
 3 (2) the judge orders the clerk to collect the fee for exceeding a
 4 worksite speed limit or failure to merge.
- 5 SECTION 10. IC 33-37-7-2, AS AMENDED BY P.L.156-2020,
 6 SECTION 124, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) The clerk of a circuit court
 8 shall distribute semiannually to the auditor of state as the state share for
 9 deposit in the homeowner protection unit account established by
 10 IC 4-6-12-9 one hundred percent (100%) of the automated record
 11 keeping fees collected under IC 33-37-5-21 with respect to actions
 12 resulting in the accused person entering into a pretrial diversion
 13 program agreement under IC 33-39-1-8 or a deferral program
 14 agreement under IC 34-28-5-1 and for deposit in the state general fund
 15 seventy percent (70%) of the amount of fees collected under the
 16 following:
- 17 (1) IC 33-37-4-1(a) (criminal costs fees).
 - 18 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
 - 19 (3) IC 33-37-4-3(a) (juvenile costs fees).
 - 20 (4) IC 33-37-4-4(a) (civil costs fees).
 - 21 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
 - 22 (6) IC 33-37-4-7(a) (probate costs fees).
 - 23 (7) IC 33-37-5-17 (deferred prosecution fees).
- 24 (b) The clerk of a circuit court shall distribute semiannually to the
 25 auditor of state for deposit in the state user fee fund established in
 26 IC 33-37-9-2 the following:
- 27 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 28 interdiction, and correction fees collected under
 29 IC 33-37-4-1(b)(5).
 - 30 (2) Twenty-five percent (25%) of the alcohol and drug
 31 countermeasures fees collected under IC 33-37-4-1(b)(6),
 32 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
 - 33 (3) One hundred percent (100%) of the child abuse prevention
 34 fees collected under IC 33-37-4-1(b)(7).
 - 35 (4) One hundred percent (100%) of the domestic violence
 36 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
 - 37 (5) One hundred percent (100%) of the highway worksite ~~zone~~
 38 fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
 - 39 (6) Seventy-five percent (75%) of the safe schools fee collected
 40 under IC 33-37-5-18.
 - 41 (7) One hundred percent (100%) of the automated record keeping
 42 fee collected under IC 33-37-5-21 not distributed under



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



1 cases designated as Title IV-D child support cases in ISETS, or the
 2 successor statewide automated support enforcement system, collected
 3 under IC 33-37-5-6 that is not reimbursable to the county at the
 4 applicable federal financial participation rate.

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

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

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

13 (3) Twenty-five percent (25%) of the safe schools fee collected
 14 under IC 33-37-5-18 for deposit in the county general fund.

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

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

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

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

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

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

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

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

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

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

42 (1) The clerk shall distribute one hundred percent (100%) of the



1 garnishee service fees collected in a circuit, superior, county, or
 2 probate court to the county auditor for deposit in the county
 3 general fund.

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

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

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

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

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

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

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

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

39 SECTION 11. IC 33-37-7-8, AS AMENDED BY P.L.144-2019,
 40 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2021]: Sec. 8. (a) The clerk of a city or town court shall
 42 distribute semiannually to the auditor of state as the state share for



1 deposit in the homeowner protection unit account established by
 2 IC 4-6-12-9 one hundred percent (100%) of the automated record
 3 keeping fees collected under IC 33-37-5-21 with respect to actions
 4 resulting in the accused person entering into a pretrial diversion
 5 program agreement under IC 33-39-1-8 or a deferral program
 6 agreement under IC 34-28-5-1 and for deposit in the state general fund
 7 fifty-five percent (55%) of the amount of fees collected under the
 8 following:

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

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

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

22 (c) The city or town fiscal officer shall retain twenty-five percent
 23 (25%) as the city or town share of the fees collected under the
 24 following:

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

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

- 33 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 34 interdiction, and correction fees collected under
 35 IC 33-37-4-1(b)(5).
- 36 (2) Twenty-five percent (25%) 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 (3) One hundred percent (100%) of the highway worksite ~~zone~~
 40 fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 41 (4) Seventy-five percent (75%) of the safe schools fee collected
 42 under IC 33-37-5-18.



- 1 (5) One hundred percent (100%) of the automated record keeping
 2 fee collected under IC 33-37-5-21 not distributed under
 3 subsection (a).
- 4 (e) The clerk of a city or town court shall distribute monthly to the
 5 county auditor the following:
- 6 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
 7 interdiction, and correction fees collected under
 8 IC 33-37-4-1(b)(5).
- 9 (2) Seventy-five percent (75%) of the alcohol and drug
 10 countermeasures fees collected under IC 33-37-4-1(b)(6),
 11 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 12 The county auditor shall deposit fees distributed by a clerk under this
 13 subsection into the county drug free community fund established under
 14 IC 5-2-11.
- 15 (f) The clerk of a city or town court shall distribute monthly to the
 16 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
 17 percent (100%) of the following:
- 18 (1) The late payment fees collected under IC 33-37-5-22.
- 19 (2) The small claims service fee collected under
 20 IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).
- 21 (3) The small claims garnishee service fee collected under
 22 IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).
- 23 (4) Twenty-five percent (25%) of the safe schools fee collected
 24 under IC 33-37-5-18.
- 25 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
 26 fees distributed by a clerk under this subsection in the city or town
 27 general fund.
- 28 (g) The clerk of a city or town court shall semiannually distribute to
 29 the auditor of state for deposit in the state general fund one hundred
 30 percent (100%) of the following:
- 31 (1) The public defense administration fee collected under
 32 IC 33-37-5-21.2.
- 33 (2) The DNA sample processing fees collected under
 34 IC 33-37-5-26.2.
- 35 (3) The court administration fees collected under IC 33-37-5-27.
- 36 (h) The clerk of a city or town court shall semiannually distribute to
 37 the auditor of state for deposit in the judicial branch insurance
 38 adjustment account established by IC 33-38-5-8.2 one hundred percent
 39 (100%) of the judicial insurance adjustment fee collected under
 40 IC 33-37-5-25.
- 41 (i) The clerk of a city or town court shall semiannually distribute to
 42 the auditor of state for deposit in the state general fund seventy-five



1 percent (75%) of the judicial salaries fee collected under
2 IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
3 percent (25%) of the judicial salaries fee collected under
4 IC 33-37-5-26. The funds retained by the city or town shall be
5 prioritized to fund city or town court operations.

6 (j) The clerk of a city or town court shall distribute semiannually to
7 the auditor of state one hundred percent (100%) of the pro bono legal
8 services fees collected before July 1, 2022, under IC 33-37-5-31. The
9 auditor of state shall transfer semiannually the pro bono legal services
10 fees to the Indiana Bar Foundation (or a successor entity) as the entity
11 designated to organize and administer the interest on lawyers trust
12 accounts (IOLTA) program under Rule 1.15 of the Rules of
13 Professional Conduct of the Indiana supreme court. The Indiana Bar
14 Foundation shall:

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

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

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

