February 6, 2015

HOUSE BILL No. 1425

DIGEST OF HB 1425 (Updated February 4, 2015 4:20 pm - DI 69)

Citations Affected: IC 33-34; IC 33-37.

Synopsis: Court fees. Increases the automated record keeping fee collected after June 30, 2015, from $5 to $9. Provides that 100% of the automated record keeping fee is distributed to the auditor of state for deposit in the state user fee fund. Increases the document storage fee from $2 to $4. Makes technical corrections and conforming amendments.

Effective: July 1, 2015.

Steuerwald, McMillin, DeLaney, Torr

January 14, 2015, read first time and referred to Committee on Courts and Criminal Code.
February 5, 2015, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

February 6, 2015

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. 1425

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:

SECTION 1. IC 33-34-8-3, AS AMENDED BY P.L.136-2012, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ Township of Marion County Small Claims Court (with the name of the township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of state:

(A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in ~~the homeowner protection unit account established by IC 4-6-12-9 and~~ the state user fee fund established under IC 33-37-9;

(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

(C) sixty percent (60%) of all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2;

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(F) one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, by the court under IC 33-37-5-31; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited monthly in the township general fund of the township in which the court is located. The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

(c) The court semiannually shall pay to the township trustee of the township in which the court is located the remaining forty percent (40%) of the court administration fees described under subsection (b)(1)(C) to fund the operations of the small claims court in the trustee's township.

SECTION 2. IC 33-37-5-2, AS AMENDED BY P.L.128-2012, SECTION 180, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit all the following in the fund:

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

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

(3) The late payment fees imposed under section 22 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-37-7-2.

(4) The fees required under IC 29-1-7-3.1 for deposit of a will.

~~(5) Automated record keeping fees deposited in the fund under IC 33-37-7-2(m).~~

(b) The clerk may use any money in the fund for the following purposes:

(1) The preservation of records.

(2) The improvement of record keeping systems and equipment.

(3) Case management system.

SECTION 3. IC 33-37-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 20. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect a document storage fee of ~~two~~ **four** dollars ~~($2).~~ **($4).**

SECTION 4. IC 33-37-5-21, AS AMENDED BY P.L.284-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 21. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect an automated record keeping fee of

~~(1) seven dollars ($7) after June 30, 2013, and before July 1, 2015, in all actions except actions described in subdivision (2);~~

~~(2) five dollars ($5) after June 30, 2013, and before July 1, 2015, with respect to actions resulting in the accused person entering into a:~~

~~(A) pretrial diversion program agreement under IC 33-39-1-8; or~~

~~(B) deferral program agreement under IC 34-28-5-1; and~~

~~(3) five~~ **nine** dollars ~~($5) after June 30, 2015.~~ **($9).**

SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.284-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share ~~for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and~~ for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) ~~The following:~~

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

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

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

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

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

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

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under

IC 5-2-11.

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

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

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

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

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

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

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

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

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

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

(2) One hundred percent (100%) of the small claims garnishee

service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-32 (before its expiration on January

1, 2015).

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

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

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

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

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

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

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

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

SECTION 6. IC 33-37-7-8, AS AMENDED BY P.L.136-2012, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share ~~for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions~~

~~resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and~~ for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

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

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

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

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

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

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

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

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

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

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

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

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1425, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1425 as introduced.)

WASHBURNE

Committee Vote: Yeas 10, Nays 1