



February 6, 2015

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## HOUSE BILL No. 1425

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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.

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**Steuerwald, McMillin, DeLaney,  
Torr**

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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.

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HB 1425—LS 6893/DI 69





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

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A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

- 1 SECTION 1. IC 33-34-8-3, AS AMENDED BY P.L.136-2012,  
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 3. (a) Payment for all costs made as a result of  
4 proceedings in a small claims court shall be to the \_\_\_\_\_ Township  
5 of Marion County Small Claims Court (with the name of the township  
6 inserted). The court shall issue a receipt for all money received on a  
7 form numbered serially in duplicate. All township docket fees and late  
8 fees received by the court shall be paid to the township trustee at the  
9 close of each month.  
10 (b) The court shall:  
11 (1) semiannually distribute to the auditor of state:  
12 (A) all automated record keeping fees (IC 33-37-5-21)  
13 received by the court for deposit in the ~~homeowner protection~~  
14 ~~unit account established by IC 4-6-12-9~~ and the state user fee  
15 fund established under IC 33-37-9;

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- 1 (B) all public defense administration fees collected by the  
 2 court under IC 33-37-5-21.2 for deposit in the state general  
 3 fund;  
 4 (C) sixty percent (60%) of all court administration fees  
 5 collected by the court under IC 33-37-5-27 for deposit in the  
 6 state general fund;  
 7 (D) all judicial insurance adjustment fees collected by the  
 8 court under IC 33-37-5-25 for deposit in the judicial branch  
 9 insurance adjustment account established by IC 33-38-5-8.2;  
 10 (E) seventy-five percent (75%) of all judicial salaries fees  
 11 collected by the court under IC 33-37-5-26 for deposit in the  
 12 state general fund; and  
 13 (F) one hundred percent (100%) of the pro bono legal services  
 14 fees collected before July 1, 2017, by the court under  
 15 IC 33-37-5-31; and  
 16 (2) distribute monthly to the county auditor all document storage  
 17 fees received by the court.  
 18 The remaining twenty-five percent (25%) of the judicial salaries fees  
 19 described in subdivision (1)(E) shall be deposited monthly in the  
 20 township general fund of the township in which the court is located.  
 21 The county auditor shall deposit fees distributed under subdivision (2)  
 22 into the clerk's record perpetuation fund under IC 33-37-5-2.  
 23 (c) The court semiannually shall pay to the township trustee of the  
 24 township in which the court is located the remaining forty percent  
 25 (40%) of the court administration fees described under subsection  
 26 (b)(1)(C) to fund the operations of the small claims court in the  
 27 trustee's township.  
 28 SECTION 2. IC 33-37-5-2, AS AMENDED BY P.L.128-2012,  
 29 SECTION 180, IS AMENDED TO READ AS FOLLOWS  
 30 [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Each clerk shall establish a  
 31 clerk's record perpetuation fund. The clerk shall deposit all the  
 32 following in the fund:  
 33 (1) Revenue received by the clerk for transmitting documents by  
 34 facsimile machine to a person under IC 5-14-3.  
 35 (2) Document storage fees required under section 20 of this  
 36 chapter.  
 37 (3) The late payment fees imposed under section 22 of this  
 38 chapter that are authorized for deposit in the clerk's record  
 39 perpetuation fund under IC 33-37-7-2.  
 40 (4) The fees required under IC 29-1-7-3.1 for deposit of a will.  
 41 ~~(5) Automated record keeping fees deposited in the fund under~~  
 42 ~~IC 33-37-7-2(m).~~



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

- 3 (1) The preservation of records.  
4 (2) The improvement of record keeping systems and equipment.  
5 (3) Case management system.

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

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

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

15 (b) The clerk shall collect an automated record keeping fee of  
16 ~~(1) seven dollars (\$7) after June 30, 2013, and before July 1,~~  
17 ~~2015, in all actions except actions described in subdivision (2);~~  
18 ~~(2) five dollars (\$5) after June 30, 2013, and before July 1, 2015;~~  
19 ~~with respect to actions resulting in the accused person entering~~  
20 ~~into a:~~

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

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

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

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

- 36 (1) IC 33-37-4-1(a) (criminal costs fees).  
37 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).  
38 (3) IC 33-37-4-3(a) (juvenile costs fees).  
39 (4) IC 33-37-4-4(a) (civil costs fees).  
40 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).  
41 (6) IC 33-37-4-7(a) (probate costs fees).  
42 (7) IC 33-37-5-17 (deferred prosecution fees).



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

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

7 (2) Twenty-five percent (25%) 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 (3) One hundred percent (100%) of the child abuse prevention  
 11 fees collected under IC 33-37-4-1(b)(7).

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

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

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

18 (7) ~~The following:~~

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

23 ~~(B) This clause applies before July 1, 2013, and after June 30,~~  
 24 ~~2015. For a county not operating under the state's automated~~  
 25 ~~judicial system; eighty percent (80%) of the automated record~~  
 26 ~~keeping fee (IC 33-37-5-21) not distributed under subsection~~  
 27 ~~(a).~~

28 ~~(C) This clause applies after June 30, 2013, and before July 1,~~  
 29 ~~2015. For a county not operating under the state's automated~~  
 30 ~~judicial system; five dollars (\$5) of the automated record~~  
 31 ~~keeping fee (IC 33-37-5-21) not distributed under subsection~~  
 32 ~~(a).~~

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

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

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

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



1 IC 5-2-11.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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





- 1 1, 2015).
- 2 (2) Any civil penalties imposed and collected by a court for a
- 3 violation of a court order in a foreclosure action under
- 4 IC 32-30-10.5.
- 5 ~~(m)~~ This subsection applies to a county that is not operating under
- 6 the state's automated judicial system. The clerk of a circuit court shall
- 7 distribute monthly to the county auditor the following part of the
- 8 automated record keeping fee ~~(IC 33-37-5-21)~~ not distributed under
- 9 subsection (a) for deposit in the clerk's record perpetuation fund:
- 10 (1) Twenty percent (20%); before July 1, 2013; and after June 30;
- 11 2015.
- 12 (2) Two dollars (\$2) of each fee collected; after June 30, 2013;
- 13 and before July 1, 2015.
- 14 ~~(n)~~ (m) The clerk of a circuit court shall distribute semiannually to
- 15 the auditor of state one hundred percent (100%) of the pro bono legal
- 16 services fees collected before July 1, 2017, under IC 33-37-5-31. The
- 17 auditor of state shall transfer semiannually the pro bono legal services
- 18 fees to the Indiana Bar Foundation (or a successor entity) as the entity
- 19 designated to organize and administer the interest on lawyers trust
- 20 accounts (IOLTA) program under Rule 1.15 of the Rules of
- 21 Professional Conduct of the Indiana supreme court. The Indiana Bar
- 22 Foundation shall:
- 23 (1) deposit in an appropriate account and otherwise manage the
- 24 fees the Indiana Bar Foundation receives under this subsection in
- 25 the same manner the Indiana Bar Foundation deposits and
- 26 manages the net earnings the Indiana Bar Foundation receives
- 27 from IOLTA accounts; and
- 28 (2) use the fees the Indiana Bar Foundation receives under this
- 29 subsection to assist or establish approved pro bono legal services
- 30 programs.
- 31 The handling and expenditure of the pro bono legal services fees
- 32 received under this section by the Indiana Bar Foundation (or its
- 33 successor entity) are subject to audit by the state board of accounts. The
- 34 amounts necessary to make the transfers required by this subsection are
- 35 appropriated from the state general fund.
- 36 SECTION 6. IC 33-37-7-8, AS AMENDED BY P.L.136-2012,
- 37 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 38 JULY 1, 2015]: Sec. 8. (a) The clerk of a city or town court shall
- 39 distribute semiannually to the auditor of state as the state share for
- 40 deposit in the homeowner protection unit account established by
- 41 ~~IC 4-6-12-9~~ one hundred percent (100%) of the automated record
- 42 keeping fees collected under ~~IC 33-37-5-21~~ with respect to actions



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

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

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

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

19 (c) The city or town fiscal officer shall retain twenty-five percent  
 20 (25%) as the city or town share of the fees collected under the  
 21 following:

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

27 (d) The clerk of a city or town court shall distribute semiannually to  
 28 the auditor of state for deposit in the state user fee fund established in  
 29 IC 33-37-9 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 highway work zone fees  
 37 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 38 (4) One hundred percent (100%) of the safe schools fee collected  
 39 under IC 33-37-5-18.
- 40 (5) One hundred percent (100%) of the automated record keeping  
 41 fee collected under IC 33-37-5-21. not distributed under  
 42 subsection (a):



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

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

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

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

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

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

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

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

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

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

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

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

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

31 (h) The clerk of a city or town court shall semiannually distribute to  
32 the auditor of state for deposit in the judicial branch insurance  
33 adjustment account established by IC 33-38-5-8.2 one hundred percent  
34 (100%) of the judicial insurance adjustment fee collected under  
35 IC 33-37-5-25.

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



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

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

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

18 The handling and expenditure of the pro bono legal services fees  
19 received under this section by the Indiana Bar Foundation (or its  
20 successor entity) are subject to audit by the state board of accounts. The  
21 amounts necessary to make the transfers required by this subsection are  
22 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.)

WASHBURN

Committee Vote: Yeas 10, Nays 1

