

HOUSE BILL No. 1522

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-40-2-1; IC 33-37-5; IC 35-38-2-1.

Synopsis: County clerks. Removes a provision that would lower the document storage fee to \$2 after June 30, 2017. Requires the clerk to keep 3% of collected probation user's fees to defray the clerk's administrative costs. Increases the clerk's fee to certify records from \$1 to \$5.

Effective: July 1, 2017.

Richardson

January 18, 2017, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1522

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 31-40-2-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) Subject to
3 IC 31-40-1-3, a juvenile court may order each delinquent child who
4 receives supervision under IC 31-37-19 or the child's parent, guardian,
5 or custodian to pay to either the probation department or the clerk of
6 the court:
- 7 (1) an initial probation user's fee of at least twenty-five dollars
 - 8 (\$25) but not more than one hundred dollars (\$100);
 - 9 (2) a probation user's fee of at least ten dollars (\$10) but not more
 - 10 than twenty-five dollars (\$25) for each month the child receives
 - 11 supervision; and
 - 12 (3) an administrative fee of one hundred dollars (\$100) if the
 - 13 delinquent child is supervised by a juvenile probation officer.
- 14 (b) If a clerk of a court collects a probation user's fee, the clerk:
- 15 (1) ~~may~~ **shall** keep not more than three percent (3%) of the fee to
 - 16 defray the administrative costs of collecting the fee and shall
 - 17 deposit any fee kept under this subsection in the clerk's record



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

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

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

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

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

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

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

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

36 SECTION 2. IC 33-37-5-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. Notwithstanding
 38 IC 5-14-3, the clerk shall collect a document fee of ~~one dollar (\$1)~~ **five**
 39 **dollars (\$5)** for each certificate under seal attached in authentication
 40 of a copy of any record, paper, or transcript.

41 SECTION 3. IC 33-37-5-20, AS AMENDED BY P.L.213-2015,
 42 SECTION 257, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2017]: Sec. 20. (a) This section applies to all
2 civil, criminal, infraction, and ordinance violation actions.

3 (b) The clerk shall collect a document storage fee of
4 ~~(1) five dollars (\$5). after June 30, 2015; and before July 1, 2017;~~
5 ~~and~~
6 ~~(2) two dollars (\$2); after June 30, 2017.~~

7 (c) ~~This subsection applies to a document storage fee collected after~~
8 ~~June 30, 2015; and before July 1, 2017.~~ For a county not operating
9 under the state's automated judicial system, three dollars (\$3) of the
10 document storage fee may be used for purposes of the county's case
11 management system.

12 SECTION 4. IC 35-38-2-1, AS AMENDED BY P.L.119-2012,
13 SECTION 166, IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) Whenever it places a person
15 on probation, the court shall:

- 16 (1) specify in the record the conditions of the probation; and
17 (2) advise the person that if the person violates a condition of
18 probation during the probationary period, a petition to revoke
19 probation may be filed before the earlier of the following:
20 (A) One (1) year after the termination of probation.
21 (B) Forty-five (45) days after the state receives notice of the
22 violation.

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

- 28 (1) modify the conditions (except a fee payment may only be
29 modified as provided in section 1.7(b) of this chapter); or
30 (2) terminate the probation;

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

33 (c) If a clerk of a court collects a probation user's fee, the clerk:
34 (1) ~~may shall~~ keep not more than three percent (3%) of the fee to
35 defray the administrative costs of collecting the fee and shall
36 deposit any fee kept under this subsection in the clerk's record
37 perpetuation fund established under IC 33-37-5-2; and
38 (2) if requested to do so by the county auditor, city fiscal officer,
39 or town fiscal officer under clause (A), (B), or (C), may transfer
40 not more than three percent (3%) of the fee to the:
41 (A) county auditor, who shall deposit the money transferred
42 under this subdivision into the county general fund;



- 1 (B) city general fund when requested by the city fiscal officer;
 2 or
 3 (C) town general fund when requested by the town fiscal
 4 officer.
- 5 (d) In addition to any other conditions of probation, the court shall
 6 order each person convicted of a felony to pay:
 7 (1) not less than twenty-five dollars (\$25) nor more than one
 8 hundred dollars (\$100) as an initial probation user's fee;
 9 (2) a monthly probation user's fee of not less than fifteen dollars
 10 (\$15) nor more than thirty dollars (\$30) for each month that the
 11 person remains on probation;
 12 (3) the costs of the laboratory test or series of tests to detect and
 13 confirm the presence of the human immunodeficiency virus (HIV)
 14 antigen or antibodies to the human immunodeficiency virus (HIV)
 15 if such tests are required by the court under section 2.3 of this
 16 chapter;
 17 (4) an alcohol abuse deterrent fee and a medical fee set by the
 18 court under IC 9-30-9-8, if the court has referred the defendant to
 19 an alcohol abuse deterrent program; and
 20 (5) an administrative fee of one hundred dollars (\$100);
 21 to either the probation department or the clerk.
- 22 (e) In addition to any other conditions of probation, the court may
 23 order each person convicted of a misdemeanor to pay:
 24 (1) not more than a fifty dollar (\$50) initial probation user's fee;
 25 (2) a monthly probation user's fee of not less than ten dollars
 26 (\$10) nor more than twenty dollars (\$20) for each month that the
 27 person remains on probation;
 28 (3) the costs of the laboratory test or series of tests to detect and
 29 confirm the presence of the human immunodeficiency virus (HIV)
 30 antigen or antibodies to the human immunodeficiency virus (HIV)
 31 if such tests are required by the court under section 2.3 of this
 32 chapter; and
 33 (4) an administrative fee of fifty dollars (\$50);
 34 to either the probation department or the clerk.
- 35 (f) The probation department or clerk shall collect the
 36 administrative fees under subsections (d)(5) and (e)(4) before
 37 collecting any other fee under subsection (d) or (e). All money
 38 collected by the probation department or the clerk under this section
 39 shall be transferred to the county treasurer, who shall deposit the
 40 money into the county supplemental adult probation services fund. The
 41 fiscal body of the county shall appropriate money from the county
 42 supplemental adult probation services fund:



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

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

7 (g) The probation department or clerk shall collect the
8 administrative fee under subsection (e)(4) before collecting any other
9 fee under subsection (e). All money collected by the probation
10 department or the clerk of a city or town court under this section shall
11 be transferred to the fiscal officer of the city or town for deposit into
12 the local supplemental adult probation services fund. The fiscal body
13 of the city or town shall appropriate money from the local supplemental
14 adult probation services fund to the city or town court of the city or
15 town for the court's use in providing probation services to adults or for
16 the court's use for other purposes as may be appropriated by the fiscal
17 body. Money may be appropriated under this subsection only to those
18 city or town courts that have an adult probation services program. If a
19 city or town court does not have such a program, the money collected
20 by the probation department must be transferred and appropriated as
21 provided under subsection (f).

22 (h) Except as provided in subsection (j), the county or local
23 supplemental adult probation services fund may be used only to
24 supplement probation services and to supplement salaries for probation
25 officers. A supplemental probation services fund may not be used to
26 replace other funding of probation services. Any money remaining in
27 the fund at the end of the year does not revert to any other fund but
28 continues in the county or local supplemental adult probation services
29 fund.

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

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

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

35 to the probation department or the clerk.

36 (j) This subsection applies to a city or town located in a county
37 having a population of more than one hundred eighty-five thousand
38 (185,000) but less than two hundred fifty thousand (250,000). Any
39 money remaining in the local supplemental adult probation services
40 fund at the end of the local fiscal year may be appropriated by the city
41 or town fiscal body to the city or town court for use by the court for
42 purposes determined by the fiscal body.



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

7 (l) The probation department may contract with a bank or credit
8 card vendor for acceptance of bank or credit cards. However, if there
9 is a vendor transaction charge or discount fee, whether billed to the
10 probation department or charged directly to the probation department's
11 account, the probation department may collect a credit card service fee
12 from the person using the bank or credit card. The fee collected under
13 this subsection is a permitted additional charge to the money the
14 probation department is required to collect under subsection (d) or (e).

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

