

SENATE BILL No. 148

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-4-1; IC 31-14-4-3; IC 33-37; IC 33-39.

Synopsis: Prosecuting attorneys. Permits a prosecuting attorney to purchase a crime insurance policy instead of executing a surety bond. Permits the department of child services or a prosecuting attorney to file a paternity action in certain cases. Allows a prosecuting attorney to request and use funds that are derived from a deferral program or pretrial diversion program for expenses of the office of the prosecuting attorney. Renames the drug prosecution fund as the substance abuse prosecution fund. Requires a prosecuting attorney to investigate information received about the commission of certain criminal offenses. Allows a prosecuting attorney to issue or request a subpoena, search warrant, or other process necessary to aid an investigation. Broadens the types of expenses a county auditor shall pay the prosecuting attorney in connection with a criminal case. Allows a prosecuting attorney to appoint employees with the approval of the county council. Allows the prosecuting attorneys council of Indiana to call two conferences each year and specifies who may attend the conferences. Requires that expenses incurred by a deputy prosecuting attorney or an employee of a prosecuting attorney for attending a conference held by the prosecuting attorneys council of Indiana be paid by the county general fund. Requires the prosecuting attorneys council of Indiana to conduct certain training. Allows a prosecuting attorney to seek and receive grants and funding from any source to assist in the discharge of duties of the office of the prosecuting attorney with the consent of the county council. Repeals the calculation of how the population of a judicial district is calculated for the purpose of determining the salary of a prosecuting attorney. Requires that a
(Continued next page)

Effective: July 1, 2022.

Koch

January 4, 2022, read first time and referred to Committee on Judiciary.



Digest Continued

prosecuting attorney of a judicial circuit with a population of more than 20,000 be a full-time prosecuting attorney. Provides a prosecuting attorney with defense and indemnification in a disciplinary action for conduct that occurred within the scope of employment.



Introduced

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 148

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

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

1 SECTION 1. IC 5-4-1-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) The oath required by section
3 1 of this chapter, except in the case of a notary public or in those cases
4 specified in section 3 of this chapter, shall be endorsed on or attached
5 to the:
6 (1) commission;
7 (2) certificate if a certificate was issued under IC 3-10-7-34,
8 IC 3-12-4, or IC 3-12-5; or
9 (3) certificate of appointment pro tempore under IC 3-13-11-11;
10 signed by the person taking the oath, and certified to by the officer
11 before whom the oath was taken, who shall also deliver to the person
12 taking the oath a copy of the oath.
13 (b) A copy of the oath of office of a prosecuting attorney shall be
14 (1) ~~recorded on the bond required by section 20 of this chapter;~~ or
15 (2) attached to the commission of the prosecuting attorney.



1 SECTION 2. IC 5-4-1-20 IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2022]: Sec. 20. (a) **This section does not apply**
 3 **if the person elected to the office of prosecuting attorney has**
 4 **purchased a crime insurance policy to which all of the following**
 5 **apply:**

6 (1) **The crime insurance policy:**

7 (A) **provides coverage for criminal acts or omissions**
 8 **committed by:**

9 (i) **the prosecuting attorney; and**

10 (ii) **any employees of the prosecuting attorney, including**
 11 **investigators, who are covered under an endorsement**
 12 **described in clause (D);**

13 (B) **includes aggregate coverage sufficient to provide**
 14 **coverage amounts specified for:**

15 (i) **the prosecuting attorney; and**

16 (ii) **any employees of the prosecuting attorney, including**
 17 **investigators, who are covered under an endorsement**
 18 **described in clause (D);**

19 (C) **is endorsed to cover the faithful performance of the**
 20 **duties of the prosecuting attorney; and**

21 (D) **may be endorsed to cover the faithful performance of**
 22 **the duties of employees of the prosecuting attorney,**
 23 **including investigators.**

24 (2) **The cost of the crime insurance policy is paid by:**

25 (A) **the county; or**

26 (B) **if the judicial circuit is composed of more than one (1)**
 27 **county, each county in the judicial circuit in the manner**
 28 **provided by IC 33-38-5-3.**

29 (3) **The state is, for the sole purpose of recovering public**
 30 **funds on behalf of a local government unit, named on the**
 31 **crime insurance policy and any endorsements as a named**
 32 **insured.**

33 (b) **A person elected to the office of prosecuting attorney shall**
 34 **execute an individual surety bond for the faithful performance of the**
 35 **duties of the office. The amount of the bond must be at least eight**
 36 **thousand five hundred dollars (\$8,500).**

37 ~~(b)~~ (c) **A person elected to the office of prosecuting attorney may**
 38 **not take office until that person has filed a bond:**

39 (1) **in the office of the county recorder of the county in which the**
 40 **person resides; and**

41 (2) **within ten (10) days after the bond is issued.**

42 ~~(c)~~ (d) **The cost of a bond shall be paid by the county. For multiple**



1 county judicial circuits, the cost shall be paid by each county in the
2 judicial circuit in the manner provided by IC 33-38-5-3.

3 ~~(d)~~ **(e)** A bond must be:

- 4 (1) executed by the person elected prosecuting attorney and one
5 (1) or more freehold sureties; and
6 (2) payable to the state as provided in section 10 of this chapter.

7 ~~(e)~~ **(f)** A bond is not void on first recovery, and suits may be brought
8 on the bond until the penalty is exhausted.

9 ~~(f)~~ **(g)** If a bond has been legally certified, any of the following have
10 the same effect in evidence as the bond:

- 11 (1) A copy of the bond.
12 (2) A record of the bond.
13 (3) A copy of a record of the bond.

14 ~~(g)~~ **(h)** The county recorder of the county in which the person
15 elected prosecuting attorney resides shall record the bond in an official
16 bond register.

17 SECTION 3. IC 31-14-4-3, AS AMENDED BY P.L.206-2015,
18 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2022]: Sec. 3. The department or a prosecuting attorney
20 operating under an agreement or contract described in IC 31-25-4-13.1,
21 may file a paternity action if:

- 22 (1) the mother;
23 (2) the person with whom the child resides; **or**
24 (3) the department; **or**
25 **(4) the alleged father;**

26 has executed an assignment of support rights **or applied for child**
27 **support services** under Title IV-D of the federal Social Security Act
28 (42 U.S.C. 651 through 669).

29 SECTION 4. IC 33-37-8-4, AS AMENDED BY P.L.187-2015,
30 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2022]: Sec. 4. (a) Except as provided in subsection (b), upon
32 receipt of:

- 33 **(1)** monthly claims submitted on oath to the fiscal body by a
34 program listed in section 3(b) of this chapter; **and**
35 **(2) a request by the prosecuting attorney;**

36 the fiscal body of the city or town shall appropriate from the city or
37 town fund to the program the amount collected for the program fee
38 under IC 33-37-5.

39 (b) Funds derived from a deferral program or a pretrial diversion
40 program ~~may be disbursed only by the adoption of an ordinance~~
41 ~~appropriating the funds~~ **must be disbursed by the fiscal body of the**
42 **city or town fund upon the request of the prosecuting attorney for**



- 1 one (1) or more of the following purposes:
 2 (1) Personnel expenses related to the operation of the program.
 3 (2) Special training for:
 4 (A) **a the** prosecuting attorney;
 5 (B) a deputy prosecuting attorney;
 6 (C) support staff for **a the** prosecuting attorney or deputy
 7 prosecuting attorney; or
 8 (D) a law enforcement officer.
 9 (3) Employment of a deputy prosecutor or prosecutorial support
 10 staff.
 11 (4) Victim assistance.
 12 (5) Electronic legal research.
 13 (6) Office equipment, including computers, computer software,
 14 communication devices, office machinery, furnishings, and office
 15 supplies.
 16 (7) Expenses of a criminal investigation and prosecution.
 17 (8) An activity or program operated by the prosecuting attorney
 18 that is intended to reduce or prevent criminal activity, including:
 19 (A) substance abuse;
 20 (B) child abuse;
 21 (C) domestic violence;
 22 (D) operating while intoxicated; and
 23 (E) juvenile delinquency.
 24 (9) The provision of evidence based mental health and addiction,
 25 intellectual disability, developmental disability, autism, and
 26 co-occurring autism and mental illness forensic treatment services
 27 to reduce the risk of recidivism in a program administered or
 28 coordinated by a provider certified or licensed by the division of
 29 mental health and addiction or the division of disability and
 30 rehabilitative services with expertise in providing evidence based
 31 forensic treatment services.
 32 (10) Any other purpose that benefits the office of the prosecuting
 33 attorney or law enforcement and that is agreed upon by the county
 34 fiscal body and the prosecuting attorney.
 35 (c) Funds described in subsection (b) may be used only in
 36 accordance with guidelines adopted by the prosecuting attorneys
 37 council under IC 33-39-8-5.
 38 SECTION 5. IC 33-37-8-6, AS AMENDED BY P.L.187-2015,
 39 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2022]: Sec. 6. (a) Except as provided in subsection (b), upon
 41 receipt of:
 42 (1) monthly claims submitted on oath to the fiscal body by a



1 program listed in section 5(b) of this chapter; **and**
 2 **(2) a request by the prosecuting attorney;**
 3 the county fiscal body shall appropriate from the county fund to the
 4 program or fund the amount collected for the program under
 5 IC 33-37-5.

6 (b) Funds derived from a deferral program or a pretrial diversion
 7 program ~~may be disbursed only by the adoption of an ordinance~~
 8 ~~appropriating the funds~~ **must be disbursed by the fiscal body of the**
 9 **county fund upon the request of the prosecuting attorney** for one

10 (1) or more of the following purposes:

11 (1) Personnel expenses related to the operation of the program.

12 (2) Special training for:

13 (A) a prosecuting attorney;

14 (B) a deputy prosecuting attorney;

15 (C) support staff for a prosecuting attorney or deputy
 16 prosecuting attorney; or

17 (D) a law enforcement officer.

18 (3) Employment of a deputy prosecutor or prosecutorial support
 19 staff.

20 (4) Victim assistance.

21 (5) Electronic legal research.

22 (6) Office equipment, including computers, computer software,
 23 communication devices, office machinery, furnishings, and office
 24 supplies.

25 (7) Expenses of a criminal investigation and prosecution.

26 (8) An activity or program operated by the prosecuting attorney
 27 that is intended to reduce or prevent criminal activity, including:

28 (A) substance abuse;

29 (B) child abuse;

30 (C) domestic violence;

31 (D) operating while intoxicated; and

32 (E) juvenile delinquency.

33 (9) The provision of evidence based mental health and addiction,
 34 intellectual disability, developmental disability, autism, and
 35 co-occurring autism and mental illness forensic treatment services
 36 to reduce the risk of recidivism in a program administered or
 37 coordinated by a provider certified or licensed by the division of
 38 mental health and addiction or the division of disability and
 39 rehabilitative services with expertise in providing evidence based
 40 forensic treatment services.

41 (10) Any other purpose that benefits the office of the prosecuting
 42 attorney or law enforcement and that is agreed upon by the county



1 fiscal body and the prosecuting attorney.

2 (c) Funds described in subsection (b) may be used only in
3 accordance with guidelines adopted by the prosecuting attorneys
4 council under IC 33-39-8-5.

5 SECTION 6. IC 33-37-9-4, AS AMENDED BY P.L.161-2018,
6 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2022]: Sec. 4. (a) The treasurer of state shall distribute
8 semiannually one million two hundred eighty-eight thousand dollars
9 (\$1,288,000) of the amounts transferred to the state fund under section
10 3 of this chapter as follows:

11 (1) Fourteen and ninety-eight hundredths percent (14.98%) shall
12 be deposited into the alcohol and drug countermeasures fund
13 established by IC 9-27-2-11.

14 (2) Eight and forty-two hundredths percent (8.42%) shall be
15 deposited into the drug interdiction fund established by
16 IC 10-11-7-1.

17 (3) Four and sixty-eight hundredths percent (4.68%) shall be
18 deposited into the ~~drug~~ **substance abuse** prosecution fund
19 established by IC 33-39-8-6.

20 (4) Five and sixty-two hundredths percent (5.62%) shall be
21 deposited into the corrections drug abuse fund established by
22 IC 11-8-2-11.

23 (5) Twenty-two and forty-seven hundredths percent (22.47%)
24 shall be deposited into the state drug free communities fund
25 established by IC 5-2-10-2.

26 (6) Seven and ninety-eight hundredths percent (7.98%) shall be
27 distributed to the Indiana department of transportation for use
28 under IC 8-23-2-15.

29 (7) Twenty and thirty-two hundredths percent (20.32%) shall be
30 deposited in the family violence and victim assistance fund
31 established by IC 5-2-6.8-3.

32 (8) Fifteen and fifty-three hundredths percent (15.53%) shall be
33 deposited in the Indiana safe schools fund established by
34 IC 5-2-10.1.

35 (b) The treasurer of state shall distribute semiannually the amount
36 remaining after the distributions are made under subsection (a) to the
37 court technology fund established by IC 33-24-6-12.

38 SECTION 7. IC 33-39-1-3 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. A person elected to
40 the office of prosecuting attorney, before entering upon the duties of
41 the office, shall execute a bond **or crime insurance policy** in the
42 manner prescribed by IC 5-4-1.



1 SECTION 8. IC 33-39-1-4, AS AMENDED BY P.L.84-2016,
 2 SECTION 152, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) When a prosecuting attorney
 4 receives information **or an allegation** of the commission of a felony,
 5 **or misdemeanor, act of delinquency, or infraction** the prosecuting
 6 attorney: ~~shall cause process to issue from a court having jurisdiction~~
 7 ~~to issue the process to the proper officer, directing the officer to~~
 8 ~~subpoena the persons named in the process who are likely to have~~
 9 ~~information concerning the commission of the felony or misdemeanor.~~
 10 ~~The prosecuting attorney shall examine a person subpoenaed before the~~
 11 ~~court that issued the process concerning the offense.~~

12 **(1) shall cause an investigation of the information or**
 13 **allegation;**

14 **(2) may issue subpoenas ad testificandum; and**

15 **(3) may cause a court having jurisdiction to issue:**

16 **(A) subpoenas;**

17 **(B) subpoenas duces tecum;**

18 **(C) search warrants; and**

19 **(D) other process necessary to support or aid the**
 20 **investigation.**

21 (b) If the facts elicited under subsection (a) are sufficient to
 22 establish a reasonable presumption of guilt against the party charged,
 23 the court shall:

24 (1) cause the testimony that amounts to a charge of a felony or
 25 misdemeanor to be reduced to writing and subscribed and sworn
 26 to by the witness; and

27 (2) issue process for the apprehension of the accused, as in other
 28 cases.

29 SECTION 9. IC 33-39-3-1 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. Except as provided
 31 in section 2 of this chapter and upon the order of a judge trying a
 32 criminal case, the county auditor shall pay to a prosecuting attorney,
 33 from funds in the county treasury not otherwise appropriated and as a
 34 part of the costs of the trial, an amount equal to the expenses
 35 necessarily incurred by a prosecuting attorney ~~in traveling to attend the~~
 36 ~~taking of any deposition~~ in connection with the criminal action.

37 SECTION 10. IC 33-39-4-1 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) The prosecuting
 39 attorney of any judicial circuit of Indiana may appoint ~~one (1) or more~~
 40 ~~investigators~~ **an employee, including an investigator**, with the
 41 approval of the county council or councils. ~~An investigator~~ **An**
 42 **employee** appointed under this section



1 (1) works under the direction of the prosecuting attorney. ~~and~~
 2 (2) may conduct investigations and assist in collecting and
 3 assembling evidence that, in the judgment of the prosecuting
 4 attorney, may be necessary for the successful prosecution of any
 5 of the criminal offenders of the judicial circuit.

6 (b) An investigator appointed under this section **who is not covered**
 7 **by a crime insurance policy described in IC 5-4-1-20** shall give bond
 8 in the sum of five thousand dollars (\$5,000). ~~and~~

9 (c) **An investigator appointed under this section** has the same
 10 police powers within the county authorized by law to all police officers.

11 ~~(e)~~ (d) In each judicial circuit the salary or other compensation to be
 12 paid an investigator appointed under this section shall be set by the
 13 county council or councils. A county council or councils may not
 14 reduce the number of investigators or compensation of any investigator
 15 without approval of the prosecuting attorney.

16 SECTION 11. IC 33-39-6-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) Prosecuting
 18 attorneys and deputy prosecuting attorneys are entitled to receive the
 19 compensation provided in this chapter. The minimum compensation of
 20 the prosecuting attorneys shall be paid in the manner prescribed in
 21 section 5 of this chapter. The compensation of the deputy prosecuting
 22 attorneys shall be paid in the manner prescribed in section 2 of this
 23 chapter.

24 (b) Upon the allowance of an itemized and verified claim by the
 25 board of county commissioners, the auditor of the county shall issue a
 26 warrant to a prosecuting attorney or deputy prosecuting attorney who
 27 filed the claim to pay any part of the compensation of a prosecuting
 28 attorney or a deputy prosecuting attorney that exceeds the amount that
 29 the state is to pay.

30 (c) A deputy prosecuting attorney who knowingly divides
 31 compensation with the prosecuting attorney or any other officer or
 32 person in connection with employment commits a Class B
 33 misdemeanor.

34 (d) A prosecuting attorney or any other officer or person who
 35 knowingly accepts any division of compensation described in
 36 subsection (c) commits a Class B misdemeanor.

37 ~~(e) The attorney general~~ **prosecuting attorneys council of Indiana**
 38 shall call at least one (1) and not more than two (2) conferences of the
 39 prosecuting attorneys, each year, to consider, discuss, and develop
 40 coordinated plans for the enforcement of the laws of Indiana. **The**
 41 **conferences of the prosecuting attorneys are subject to the**
 42 **following:**



1 (1) The date or dates upon which the conferences are held shall
 2 be fixed by the ~~attorney general~~: **prosecuting attorneys council**
 3 **of Indiana.**

4 (2) The expenses necessarily incurred by a prosecuting attorney,
 5 **a deputy prosecuting attorney, or an employee of a**
 6 **prosecuting attorney** in attending a conference, including the
 7 actual expense of transportation to and from the place where the
 8 conference is held, together with meals and lodging, shall be paid
 9 from the general fund of the county upon the presentation of an
 10 itemized and verified claim, filed as required by law, and by
 11 warrant issued by the county auditor.

12 (3) If there is more than one (1) county in any judicial circuit, the
 13 expenses of the prosecuting attorneys, **deputy prosecuting**
 14 **attorneys, and employees of the prosecuting attorneys** incurred
 15 by virtue of this subsection shall be paid from the general fund of
 16 the respective counties constituting the circuit in the same
 17 proportion that the classification factor of each county bears to the
 18 classification factor of the judicial circuit as determined according
 19 to law by the state board of accounts: **as the populations of the**
 20 **counties.**

21 SECTION 12. IC 33-39-6-2, AS AMENDED BY P.L.78-2011,
 22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2022]: Sec. 2. (a) A prosecuting attorney may appoint one (1)
 24 chief deputy prosecuting attorney. The maximum annual salary paid by
 25 the state of a chief deputy prosecuting attorney appointed under this
 26 subsection is as follows:

27 (1) If the prosecuting attorney is a full-time prosecuting attorney
 28 appointing a full-time chief deputy prosecuting attorney, the
 29 annual salary of the chief deputy prosecuting attorney is equal to
 30 seventy-five percent (75%) of the salary paid by the state to a
 31 full-time prosecuting attorney.

32 (2) If the prosecuting attorney is a full-time prosecuting attorney
 33 appointing a part-time chief deputy prosecuting attorney, the
 34 annual salary of the chief deputy prosecuting attorney is equal to
 35 seventy-five percent (75%) of the salary paid by the state to a
 36 part-time prosecuting attorney serving the judicial district served
 37 by the chief deputy prosecuting attorney.

38 (3) If the prosecuting attorney is a part-time prosecuting attorney
 39 appointing a full-time chief deputy prosecuting attorney, the
 40 annual salary of the chief deputy prosecuting attorney is equal to
 41 seventy-five percent (75%) of the salary paid by the state to a
 42 full-time prosecuting attorney.



1 (4) If the prosecuting attorney is a part-time prosecuting attorney
2 appointing a part-time chief deputy prosecuting attorney, the
3 annual salary of the chief deputy prosecuting attorney is equal to
4 seventy-five percent (75%) of the salary paid by the state to a
5 part-time prosecuting attorney.

6 (b) The prosecuting attorney in a county in which is located at least
7 one (1) institution operated by the department of correction that houses
8 at least one thousand five hundred (1,500) offenders may appoint two
9 (2) additional deputy prosecuting attorneys. In a county having two (2)
10 institutions, each of which houses at least one thousand five hundred
11 (1,500) offenders, the prosecuting attorney may appoint a third deputy
12 prosecuting attorney.

13 (c) The prosecuting attorney in a county in which is located an
14 institution operated by the department of correction that houses at least
15 one hundred (100) but less than one thousand five hundred (1,500)
16 adult offenders may appoint one (1) additional deputy prosecuting
17 attorney.

18 (d) The prosecuting attorney in a county in which is located a state
19 institution (as defined in IC 12-7-2-184) that has a daily population of
20 at least three hundred fifty (350) patients may appoint one (1)
21 additional deputy prosecuting attorney.

22 (e) The prosecuting attorney of Cass County may appoint one (1)
23 additional deputy prosecuting attorney.

24 (f) The annual salary of a deputy prosecuting attorney appointed
25 under subsections (b) through (e) may not be less than seventy-five
26 percent (75%) of the annual salary of the appointing prosecuting
27 attorney, as determined under section 5 of this chapter as though the
28 prosecuting attorney had not elected full-time status.

29 (g) The salaries provided in this section shall be paid by the state
30 once every two (2) weeks from the state general fund. There is
31 appropriated annually out of the general fund of the state sufficient
32 funds to pay any amount necessary. However, the salaries fixed in this
33 chapter are determined to be maximum salaries to be paid by the state.
34 This chapter does not limit the power of counties comprising the
35 respective judicial circuits to pay additional salaries upon proper action
36 by the appropriate county officials.

37 (h) The various county councils shall appropriate annually for other
38 deputy prosecuting attorneys, investigators, clerical assistance, witness
39 fees, out-of-state travel, postage, telephone tolls and telegraph, repairs
40 to equipment, office supplies, other operating expenses, and equipment
41 an amount necessary for the proper discharge of the duties imposed by
42 law upon the office of the prosecuting attorney of each judicial circuit.



1 (i) Each county council shall, upon the direction of the
2 prosecuting attorney, appropriate funds collected under
3 IC 33-39-1-8 as provided by IC 33-37-8.

4 (j) Prosecuting attorneys may seek and receive grants and
5 funding from any source to assist in the discharge of the duties
6 imposed by law on the office of the prosecuting attorney subject to
7 the following:

8 (1) A prosecuting attorney shall obtain the consent of the
9 county council to seek and receive a grant or funding source.

10 (2) A county council may not withhold consent for a request
11 by a prosecuting attorney for funding that is to assist the
12 prosecuting attorney in the discharge of duties.

13 (3) After an award and receipt of grant funds or funds from
14 sources other than the county general fund, a county council
15 shall, upon the direction of the prosecuting attorney,
16 appropriate the funds to permit the prosecuting attorney to
17 discharge the duties of the office of the prosecuting attorney
18 as provided in this section.

19 SECTION 13. IC 33-39-6-3 IS REPEALED [EFFECTIVE JULY 1,
20 2022]. Sec. 3: For purposes of fixing the salaries of the various
21 prosecuting attorneys under this chapter, each judicial circuit of the
22 state is:

23 (1) graded on the basis of population and gross assessed
24 valuation; and

25 (2) set up on the percentage ratio it bears to the state, the whole
26 state being considered as one hundred percent (100%):

27 SECTION 14. IC 33-39-6-4 IS REPEALED [EFFECTIVE JULY 1,
28 2022]. Sec. 4. (a) The nine (9) classes of the several judicial circuits of
29 the state as set out in this chapter are based on a unit factor system. The
30 factors are determined by the relations of the judicial circuit to the state
31 as established and certified to each county auditor by the state board of
32 accounts not later than June 20 of any calendar year. They are as
33 follows:

34 (1) Population:

35 (2) Gross assessed valuation as shown by the last preceding gross
36 assessed valuation as certified by the various counties to the
37 auditor of the state in the calendar year in which the calculation
38 is made.

39 (b) The factors for each of the nine (9) classes set out in this chapter
40 shall be obtained as follows:

41 (1) The population of each judicial circuit shall be divided by the
42 population of the entire state:



- 1 (2) The gross assessed valuation of each judicial circuit shall be
- 2 divided by the gross assessed valuation of the entire state:
- 3 (3) The two (2) results thus obtained shall be added together and
- 4 the sum thus obtained for each judicial circuit shall be divided by
- 5 two (2):
- 6 (4) The final result so obtained, multiplied by one hundred (100);
- 7 shall determine the classification of each judicial circuit
- 8 according to the following schedule:

9 CLASSIFICATION FACTORS

10	HIGH	LOW	CLASS
11 NO LIMIT		8.00	1
12 ALL UNDER	8.00	2.25	2
13 ALL UNDER	2.25	1.25	3
14 ALL UNDER	1.25	.85	4
15 ALL UNDER	.85	.70	5
16 ALL UNDER	.70	.60	6
17 ALL UNDER	.60	.50	7
18 ALL UNDER	.50	.35	8
19 ALL UNDER	.35	No limit	9

20 SECTION 15. IC 33-39-6-6 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) Except as
 22 provided in section 7 of this chapter, a prosecuting attorney may elect
 23 to devote the prosecuting attorney's ~~full~~ professional time **part time** to
 24 the duties of the office of prosecuting attorney by filing a written notice
 25 with the circuit court of the prosecuting attorney's judicial circuit and
 26 the auditor of state. The election may be made annually during the
 27 prosecuting attorney's term. However, the notice of election must be
 28 made before June 30 of the applicable year. An election is effective for
 29 each successive year of the term unless it is revoked before June 30 of
 30 the year during which the prosecuting attorney wants to change the
 31 prosecuting attorney's status. However, only one (1) change in status
 32 may be made during the term. A revocation is made by the prosecuting
 33 attorney by filing a written notice with the circuit court of the
 34 prosecuting attorney's judicial circuit and the auditor of state.

35 (b) A **full-time** prosecuting attorney: ~~who elects to be a full-time~~
 36 ~~prosecuting attorney:~~

- 37 (1) shall devote the prosecuting attorney's full professional time
- 38 to the prosecuting attorney's office; and
- 39 (2) may not engage in the private practice of law.

40 (c) If a prosecuting attorney of a judicial circuit of the sixth through
 41 ninth class elects to become a **full-time part-time** prosecuting attorney
 42 and the majority of the county council consents to the election, a copy



1 of the consent must be filed with the notice of election to ~~full-time~~
 2 **part-time** status with the circuit court of the prosecuting attorney's
 3 judicial circuit and with the auditor of state.

4 SECTION 16. IC 33-39-6-7, AS AMENDED BY P.L.119-2012,
 5 SECTION 164, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2022]: Sec. 7. The prosecuting attorney of each
 7 judicial circuit of the ~~second class~~ within a county having a population
 8 of more than ~~two hundred fifty thousand (250,000)~~ but less than ~~two~~
 9 ~~hundred seventy thousand (270,000)~~ **twenty thousand (20,000)** shall
 10 devote the prosecuting attorney's full professional time to the duties of
 11 the prosecuting attorney's office. The prosecuting attorney may not
 12 engage in the private practice of law for the term for which the
 13 prosecuting attorney was elected or appointed, and the prosecuting
 14 attorney is entitled to a minimum annual salary that is not less than the
 15 salary of the judge of the circuit court of the same judicial circuit.

16 SECTION 17. IC 33-39-6-8 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) The
 18 compensation provided in this chapter for prosecuting attorneys and
 19 their deputies is in full for all services required by law. Prosecuting
 20 attorneys shall appear in all courts and in all cases where the law
 21 provides that they shall appear.

22 (b) Prosecuting attorneys, deputy prosecuting attorneys, ~~and~~
 23 investigators, **and other employees of prosecuting attorneys** are
 24 entitled to a sum for mileage for the miles necessarily traveled in the
 25 discharge of their duties. The sum for mileage provided by this
 26 subsection must:

27 (1) equal the sum per mile paid to state officers and employees,
 28 with the rate changing each time the state government changes its
 29 rate per mile;

30 (2) be allowed by the board of county commissioners on a claim
 31 duly filed monthly by the prosecutor, deputy prosecuting
 32 attorneys, ~~and~~ investigators, **and other employees** itemizing the
 33 specific mileage traveled; and

34 (3) be paid by the county in which the duty arose that necessitated
 35 the travel.

36 (c) This chapter does not prohibit the payment of other expenses as
 37 may be allowed by law.

38 (d) If a board of county commissioners does not furnish the
 39 prosecuting attorney with office space, the county council shall
 40 appropriate a reasonable amount of money per year to the prosecuting
 41 attorney for office space.

42 SECTION 18. IC 33-39-8-5, AS AMENDED BY P.L.237-2015,



1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2022]: Sec. 5. The council shall do the following:

3 (1) Assist in the coordination of the duties of the prosecuting
4 attorneys of the state and their staffs.

5 (2) Prepare manuals of procedure.

6 (3) Give assistance in preparation of the trial briefs, forms, and
7 instructions.

8 **(4) Conduct training for prosecuting attorneys and the staff
9 of prosecuting attorneys.**

10 ~~(4)~~ (5) Conduct research and studies that would be of interest and
11 value to all prosecuting attorneys and their staffs.

12 ~~(5)~~ (6) Maintain liaison contact with study commissions and
13 agencies of all branches of local, state, and federal government
14 that will be of benefit to law enforcement and the fair
15 administration of justice in Indiana.

16 ~~(6)~~ (7) Adopt guidelines for the expenditure of funds derived from
17 a deferral program or a pretrial diversion program.

18 ~~(7)~~ (8) The council shall:

19 (A) compile forfeiture data received under IC 34-24-1-4.5; and

20 (B) annually submit a report to the legislative council
21 containing the compiled data.

22 The council shall submit the report to the legislative council before
23 July 15 of every year. The report must be in an electronic format under
24 IC 5-14-6. The council may adopt rules under IC 4-22-2 to implement
25 this subdivision.

26 SECTION 19. IC 33-39-8-6 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) The ~~drug~~
28 **substance abuse** prosecution fund is established. The council shall
29 administer the fund. Expenditures from the fund may be made only in
30 accordance with appropriations made by the general assembly.

31 (b) The council may use money from the fund to provide assistance
32 to prosecuting attorneys to:

33 (1) investigate and prosecute violations of IC 35-48;

34 (2) bring actions for forfeiture, law enforcement costs, and
35 correction costs under IC 34-24-1;

36 (3) bring actions for civil and criminal remedies for a violation of
37 IC 35-45-6; and

38 (4) obtain training, equipment, and technical assistance that
39 would enhance the ability of prosecuting attorneys to reduce
40 illegal drug activity.

41 (c) The treasurer of state shall invest the money in the fund not
42 currently needed to meet the obligations of the fund in the same



1 manner as other public funds may be invested.
2 (d) Money in the fund at the end of a fiscal year does not revert to
3 the state general fund.
4 SECTION 20. IC 33-39-9-1 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. This chapter does not
6 apply to a threatened, pending, or completed action or a proceeding
7 that:
8 (1) results in the criminal conviction of; or
9 (2) is a disciplinary action or proceeding **for conduct occurring**
10 **outside the scope of a prosecuting attorney's employment**
11 against;
12 a prosecuting attorney.

