

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 ENROLLED ACT No. 148

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 5-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) The oath required by section 1 of this chapter, except in the case of a notary public or in those cases specified in section 3 of this chapter, shall be endorsed on or attached to the:

- (1) commission;
- (2) certificate if a certificate was issued under IC 3-10-7-34, IC 3-12-4, or IC 3-12-5; or
- (3) certificate of appointment pro tempore under IC 3-13-11-11; signed by the person taking the oath, and certified to by the officer before whom the oath was taken, who shall also deliver to the person taking the oath a copy of the oath.

- (b) A copy of the oath of office of a prosecuting attorney shall be
 - (1) ~~recorded on the bond required by section 20 of this chapter;~~ or
 - (2) attached to the commission of the prosecuting attorney.

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

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apply:

- (1) **The crime insurance policy:**
 - (A) **provides coverage for criminal acts or omissions committed by:**
 - (i) **the prosecuting attorney; and**
 - (ii) **any employees of the prosecuting attorney, including investigators, who are covered under an endorsement described in clause (D);**
 - (B) **includes aggregate coverage sufficient to provide coverage amounts specified for:**
 - (i) **the prosecuting attorney; and**
 - (ii) **any employees of the prosecuting attorney, including investigators, who are covered under an endorsement described in clause (D);**
 - (C) **is endorsed to cover the faithful performance of the duties of the prosecuting attorney; and**
 - (D) **may be endorsed to cover the faithful performance of the duties of employees of the prosecuting attorney, including investigators.**
- (2) **The cost of the crime insurance policy is paid by:**
 - (A) **the county; or**
 - (B) **if the judicial circuit is composed of more than one (1) county, each county in the judicial circuit in the manner provided by IC 33-38-5-3.**
- (3) **The state is, for the sole purpose of recovering public funds on behalf of a local government unit, named on the crime insurance policy and any endorsements as a named insured.**

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

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

- (1) in the office of the county recorder of the county in which the person resides; and
- (2) within ten (10) days after the bond is issued.

~~(c)~~ (d) The cost of a bond shall be paid by the county. For multiple county judicial circuits, the cost shall be paid by each county in the judicial circuit in the manner provided by IC 33-38-5-3.

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

- (1) executed by the person elected prosecuting attorney and one

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- (1) or more freehold sureties; and
- (2) payable to the state as provided in section 10 of this chapter.
- ~~(e)~~ **(f)** A bond is not void on first recovery, and suits may be brought on the bond until the penalty is exhausted.
- ~~(f)~~ **(g)** If a bond has been legally certified, any of the following have the same effect in evidence as the bond:
 - (1) A copy of the bond.
 - (2) A record of the bond.
 - (3) A copy of a record of the bond.
- ~~(g)~~ **(h)** The county recorder of the county in which the person elected prosecuting attorney resides shall record the bond in an official bond register.

SECTION 3. IC 31-14-4-3, AS AMENDED BY P.L.206-2015, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. **(a)** The department or a prosecuting attorney operating under an agreement or contract described in IC 31-25-4-13.1, may file a paternity action **as next friend of the child** if:

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

has executed an assignment of support rights **or applied for IV-D services** under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) **and IC 31-25-4-19.**

(b) A filing under subsection (a) by the department or prosecuting attorney must be made within the period that would apply if the child were filing on the child's own behalf under IC 31-14-5-2.

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

- (1) Fourteen and ninety-eight hundredths percent (14.98%) shall be deposited into the alcohol and drug countermeasures fund established by IC 9-27-2-11.
- (2) Eight and forty-two hundredths percent (8.42%) shall be deposited into the drug interdiction fund established by IC 10-11-7-1.
- (3) Four and sixty-eight hundredths percent (4.68%) shall be deposited into the ~~drug~~ **substance abuse** prosecution fund



established by IC 33-39-8-6.

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

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

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

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

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

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

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

SECTION 6. IC 33-39-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. Except as provided in section 2 of this chapter and upon the order of a judge trying a criminal case, the county auditor shall pay to a prosecuting attorney, from funds in the county treasury not otherwise appropriated and as a part of the costs of the trial, an amount equal to the expenses necessarily incurred by a prosecuting attorney ~~in traveling to attend the taking of any deposition~~ in connection with the criminal action.

SECTION 7. IC 33-39-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) The prosecuting attorney of any judicial circuit of Indiana may appoint ~~one (1) or more investigators~~ **an employee, including an investigator**, with the approval of the county council or councils. ~~An investigator~~ **An employee** appointed under this section

(1) works under the direction of the prosecuting attorney. and

(2) ~~may conduct investigations and assist in collecting and assembling evidence that, in the judgment of the prosecuting attorney, may be necessary for the successful prosecution of any~~



of the criminal offenders of the judicial circuit.

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

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

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

SECTION 8. IC 33-39-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) Prosecuting attorneys and deputy prosecuting attorneys are entitled to receive the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

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

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

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

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

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

(2) The expenses necessarily incurred by a prosecuting attorney



in attending a conference, including the actual expense of transportation to and from the place where the conference is held, together with meals and lodging, shall be paid from the general fund of the county upon the presentation of an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor.

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

SECTION 9. IC 33-39-6-3 IS REPEALED [EFFECTIVE JULY 1, 2022]. Sec. 3: For purposes of fixing the salaries of the various prosecuting attorneys under this chapter, each judicial circuit of the state is:

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

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

SECTION 10. IC 33-39-6-4 IS REPEALED [EFFECTIVE JULY 1, 2022]. Sec. 4: (a) The nine (9) classes of the several judicial circuits of the state as set out in this chapter are based on a unit factor system. The factors are determined by the relations of the judicial circuit to the state as established and certified to each county auditor by the state board of accounts not later than June 20 of any calendar year. They are as follows:

(1) Population:

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

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

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

(2) The gross assessed valuation of each judicial circuit shall be divided by the gross assessed valuation of the entire state:

(3) The two (2) results thus obtained shall be added together and the sum thus obtained for each judicial circuit shall be divided by two (2):



(4) The final result so obtained, multiplied by one hundred (100); shall determine the classification of each judicial circuit according to the following schedule:

CLASSIFICATION FACTORS			
	HIGH	LOW	CLASS
NO LIMIT		8.00	1
ALL UNDER	8.00	2.25	2
ALL UNDER	2.25	1.25	3
ALL UNDER	1.25	.85	4
ALL UNDER	.85	.70	5
ALL UNDER	.70	.60	6
ALL UNDER	.60	.50	7
ALL UNDER	.50	.35	8
ALL UNDER	.35	No limit	9

SECTION 11. IC 33-39-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) The compensation provided in this chapter for prosecuting attorneys and their deputies is in full for all services required by law. Prosecuting attorneys shall appear in all courts and in all cases where the law provides that they shall appear.

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

- (1) equal the sum per mile paid to state officers and employees, with the rate changing each time the state government changes its rate per mile;
- (2) be allowed by the board of county commissioners on a claim duly filed monthly by the prosecutor, deputy prosecuting attorneys, ~~and~~ investigators, **and other employees** itemizing the specific mileage traveled; and
- (3) be paid by the county in which the duty arose that necessitated the travel.

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

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

SECTION 12. IC 33-39-8-5, AS AMENDED BY P.L.237-2015, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2022]: Sec. 5. The council shall do the following:

- (1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.
- (2) Prepare manuals of procedure.
- (3) Give assistance in preparation of the trial briefs, forms, and instructions.
- (4) Conduct training for prosecuting attorneys and the staff of prosecuting attorneys.**
- ~~(4)~~ **(5)** Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.
- ~~(5)~~ **(6)** Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.
- ~~(6)~~ **(7)** Adopt guidelines for the expenditure of funds derived from a deferral program or a pretrial diversion program.
- ~~(7)~~ **(8)** The council shall:
 - (A) compile forfeiture data received under IC 34-24-1-4.5; and
 - (B) annually submit a report to the legislative council containing the compiled data.

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

SECTION 13. IC 33-39-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) The ~~drug~~ **substance abuse** prosecution fund is established. The council shall administer the fund. Expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

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

- (1) investigate and prosecute violations of IC 35-48;
- (2) bring actions for forfeiture, law enforcement costs, and correction costs under IC 34-24-1;
- (3) bring actions for civil and criminal remedies for a violation of IC 35-45-6; and
- (4) obtain training, equipment, and technical assistance that would enhance the ability of prosecuting attorneys to reduce illegal drug activity.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

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(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

SECTION 14. IC 33-39-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. This chapter does not apply to a threatened, pending, or completed action or a proceeding that:

- (1) results in the criminal conviction of; or
- (2) is a disciplinary action or proceeding **for conduct occurring outside the scope of a prosecuting attorney's employment** against;
a prosecuting attorney.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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