



January 22, 2016

SENATE BILL No. 197

DIGEST OF SB 197 (Updated January 20, 2016 12:10 pm - DI 106)

Citations Affected: IC 10-11; IC 33-37.

Synopsis: Internet crimes against children fee and fund. Establishes the Internet crimes against children fund (fund). Requires the state police department to administer the fund and use money in the fund to: (1) pay for costs incurred by the department for training, purchasing equipment, and investigating felonies and misdemeanors that involve the use of the Internet in which a child is the alleged victim; and (2) award grants to county, city, and town law enforcement agencies that agree to use the money to investigate Internet crimes against children in accordance with United States Department of Justice Internet Crimes Against Children Operational and Investigative Standards. Provides that, in each court action in which a person is convicted of a felony or misdemeanor, the clerk of the court shall collect an Internet crimes against children fee (fee) of \$10 from the person. Requires the clerk of a court to distribute the fees collected to the auditor of state. Requires the auditor of state to transfer the fees to the fund.

Effective: July 1, 2016.

Crider, Arnold J, Head, Steele

January 6, 2016, read first time and referred to Committee on Judiciary.
January 21, 2016, reported favorably — Do Pass; reassigned to Committee on Tax & Fiscal Policy.

SB 197—LS 6640/DI 69



January 22, 2016

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 197

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure and to make an appropriation.

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

1 SECTION 1. IC 10-11-10 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]:

4 **Chapter 10. Internet Crimes Against Children Fund**

5 **Sec. 1. As used in this chapter, "fund" refers to the Internet**
6 **crimes against children fund established under section 2 of this**
7 **chapter.**

8 **Sec. 2. (a) The Internet crimes against children fund is**
9 **established.**

10 **(b) The fund may be used only to pay for the purposes described**
11 **in sections 3 and 4 of this chapter.**

12 **(c) The fund shall be administered by the department.**

13 **(d) The fund consists of Internet crimes against children fees**
14 **transferred to the fund by the auditor of state under:**

15 **(1) IC 33-37-7-2(n); and**

16 **(2) IC 33-37-7-8(k).**

17 **(e) The expenses of administering the fund shall be paid from**

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1 money in the fund.

2 (f) Money in the fund is continually appropriated to carry out
3 the purposes of the fund.

4 Sec. 3. The department shall use money in the fund to pay for
5 costs incurred by the department for training, purchasing
6 equipment, and investigating felonies and misdemeanors:

7 (1) that involve the use of the Internet; and

8 (2) in which a child is the alleged victim.

9 Sec. 4. (a) The department shall use not more than fifty percent
10 (50%) of the money deposited in the fund during a state fiscal year
11 to award grants to county, city, and town law enforcement agencies
12 that agree to use the money to investigate Internet crimes against
13 children in accordance with United States Department of Justice
14 Internet Crimes Against Children Operational and Investigative
15 Standards.

16 (b) The department shall establish:

17 (1) the amounts of grants awarded under this section; and

18 (2) criteria used to award grants to county, city, and town law
19 enforcement agencies under this section, which may include
20 any of the following:

21 (A) The geographic location and population of the
22 jurisdiction of a law enforcement agency.

23 (B) The number of reports of Internet crimes against
24 children within the jurisdiction of a law enforcement
25 agency.

26 (C) The past and current participation of a law
27 enforcement agency in the department's Internet Crimes
28 Against Children Task Force.

29 (c) A county, city, or town law enforcement agency that wishes
30 to receive a grant from the fund under this section must file a
31 written application for the grant:

32 (1) on a form; and

33 (2) in the manner;

34 prescribed by the department.

35 SECTION 2. IC 33-37-4-1, AS AMENDED BY P.L.182-2009(ss),
36 SECTION 392, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) For each action that results in
38 a felony conviction under IC 35-50-2 or a misdemeanor conviction
39 under IC 35-50-3, the clerk shall collect from the defendant a criminal
40 costs fee of one hundred twenty dollars (\$120).

41 (b) In addition to the criminal costs fee collected under this section,
42 the clerk shall collect from the defendant the following fees if they are



- 1 required under IC 33-37-5:
- 2 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
- 3 IC 33-37-5-4).
- 4 (2) A marijuana eradication program fee (IC 33-37-5-7).
- 5 (3) An alcohol and drug services program user fee
- 6 (IC 33-37-5-8(b)).
- 7 (4) A law enforcement continuing education program fee
- 8 (IC 33-37-5-8(c)).
- 9 (5) A drug abuse, prosecution, interdiction, and correction fee
- 10 (IC 33-37-5-9).
- 11 (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- 12 (7) A child abuse prevention fee (IC 33-37-5-12).
- 13 (8) A domestic violence prevention and treatment fee
- 14 (IC 33-37-5-13).
- 15 (9) A highway work zone fee (IC 33-37-5-14).
- 16 (10) A deferred prosecution fee (IC 33-37-5-17).
- 17 (11) A document storage fee (IC 33-37-5-20).
- 18 (12) An automated record keeping fee (IC 33-37-5-21).
- 19 (13) A late payment fee (IC 33-37-5-22).
- 20 (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- 21 (15) A public defense administration fee (IC 33-37-5-21.2).
- 22 (16) A judicial insurance adjustment fee (IC 33-37-5-25).
- 23 (17) A judicial salaries fee (IC 33-37-5-26).
- 24 (18) A court administration fee (IC 33-37-5-27).
- 25 (19) A DNA sample processing fee (IC 33-37-5-26.2).
- 26 **(20) An Internet crimes against children fee (IC 33-37-5-34).**
- 27 (c) Instead of the criminal costs fee prescribed by this section,
- 28 except for the automated record keeping fee (IC 33-37-5-21), the clerk
- 29 shall collect a pretrial diversion program fee if an agreement between
- 30 the prosecuting attorney and the accused person entered into under
- 31 IC 33-39-1-8 requires payment of those fees by the accused person.
- 32 The pretrial diversion program fee is:
- 33 (1) an initial user's fee of fifty dollars (\$50); and
- 34 (2) a monthly user's fee of ten dollars (\$10) for each month that
- 35 the person remains in the pretrial diversion program.
- 36 (d) The clerk shall transfer to the county auditor or city or town
- 37 fiscal officer the following fees, not later than thirty (30) days after the
- 38 fees are collected:
- 39 (1) The pretrial diversion fee.
- 40 (2) The marijuana eradication program fee.
- 41 (3) The alcohol and drug services program user fee.
- 42 (4) The law enforcement continuing education program fee.



The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) The clerk shall apply the partial payment to general court costs.

(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.

(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 3. IC 33-37-5-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 34. In each action in which a person is convicted of a felony or misdemeanor, the clerk shall collect an Internet crimes against children fee of ten dollars (\$10).**

SECTION 4. IC 33-37-7-2, AS AMENDED BY P.L.213-2015, SECTION 259, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

(7) One hundred percent (100%) of the automated record keeping fee collected under IC 33-37-5-21 not distributed under subsection (a).

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

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

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

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

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

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



county general fund.

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

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

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

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

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

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

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

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

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

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

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



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

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

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

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

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

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

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

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

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

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

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

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-33 (before its expiration on July 1, 2017).

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

(m) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity



designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

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

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

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

(n) The clerk of a circuit court shall distribute monthly to the auditor of state one hundred percent (100%) of the Internet crimes against children fees collected under IC 33-37-5-34. The auditor of state shall transfer semiannually the Internet crimes against children fees to the Internet crimes against children fund established by IC 10-11-10-2.

SECTION 5. IC 33-37-7-8, AS AMENDED BY P.L.213-2015, SECTION 260, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

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

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

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

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

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

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



of fees collected under the following:

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

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

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

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

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

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

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

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

(f) The clerk of a city or town court shall distribute monthly to the



city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

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

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

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

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

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

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

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

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

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

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

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

(1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and



1 manages the net earnings the Indiana Bar Foundation receives
2 from IOLTA accounts; and

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

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

11 **(k) The clerk of a city or town court shall distribute monthly to**
12 **the auditor of state one hundred percent (100%) of the Internet**
13 **crimes against children fees collected under IC 33-37-5-34. The**
14 **auditor of state shall transfer semiannually the Internet crimes**
15 **against children fees to the Internet crimes against children fund**
16 **established by IC 10-11-10-2.**



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 197, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Tax & Fiscal Policy.

(Reference is to SB 197 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0

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