



April 1, 2005

**ENGROSSED
HOUSE BILL No. 1241**

DIGEST OF HB 1241 (Updated March 31, 2005 10:05 am - DI 58)

Citations Affected: IC 10-13.

Synopsis: DNA samples from felons. Requires a person convicted of: (1) a felony; (2) conspiracy to commit a felony; or (3) attempt to commit a felony; to provide a DNA sample to the department of correction or a sheriff. Permits the department of correction to perform DNA analysis on a sample at any time, and requires the department of correction to perform DNA analysis on a sample when federal funds for testing become available. Provides that the mistaken placement of a DNA sample in the database does not invalidate a conviction based on the DNA sample.

Effective: July 1, 2005; January 1, 2006.

**Harris T, Behning, Turner,
Lawson L, Klinker, Pond**

(SENATE SPONSORS — ZAKAS, BRAY, WYSS, BREAUX, LANANE,
HERSHMAN, LONG, MRVAN, HOWARD, ANTICH-CARR, JACKMAN,
CRAYCRAFT, FORD)

January 6, 2005, read first time and referred to Committee on Courts and Criminal Code.
January 13, 2005, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.

February 14, 2005, amended, reported — Do Pass.
February 17, 2005, read second time, ordered engrossed.
February 18, 2005, engrossed.
February 21, 2005, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 24, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

March 17, 2005, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

March 31, 2005, amended, reported favorably — Do Pass.

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EH 1241—LS 7611/DI 107+



April 1, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1241

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

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

- 1 SECTION 1. IC 10-13-6-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The
3 superintendent may establish a data base of DNA identification records
4 of:
5 (1) convicted criminals;
6 (2) crime scene specimens;
7 (3) unidentified missing persons; and
8 (4) close biological relatives of missing persons.
9 (b) The superintendent shall maintain the Indiana DNA data base.
10 (c) The superintendent may contract for services to perform DNA
11 analysis of convicted offenders under section 10 of this chapter to assist
12 federal, state, and local criminal justice and law enforcement agencies
13 in the putative identification, detection, or exclusion of individuals who
14 are subjects of an investigation or prosecution of a sex offense, a
15 violent crime, or another crime in which biological evidence is
16 recovered from the crime scene.
17 (d) **The superintendent:**

EH 1241—LS 7611/DI 107+



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1 **(1) may perform or contract for performance of testing,**
 2 **typing, or analysis of a DNA sample collected from a person**
 3 **described in section 10 of this chapter at any time; and**
 4 **(2) shall perform or contract for the performance of testing,**
 5 **typing, or analysis of a DNA sample collected from a person**
 6 **described in section 10 of this chapter if federal funds become**
 7 **available for the performance of DNA testing, typing, or**
 8 **analysis.**

9 ~~(d)~~ **(e)** The superintendent shall adopt rules under IC 4-22-2
 10 necessary to administer and enforce the provisions and intent of this
 11 chapter.

12 **(f) The detention, arrest, or conviction of a person based on a**
 13 **data base match or data base information is not invalidated if a**
 14 **court determines that the DNA sample was obtained or placed in**
 15 **the Indiana DNA data base by mistake.**

16 SECTION 2. IC 10-13-6-10 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) This
 18 section applies to the following:

19 (1) A person convicted of a felony under IC 35-42 (offenses
 20 against the person) **or** IC 35-43-2-1 (burglary): ~~or IC 35-42-4-6~~
 21 ~~(child solicitation):~~

22 (A) after June 30, 1996, whether or not the person is sentenced
 23 to a term of imprisonment; ~~and or~~

24 (B) before July 1, 1996, if the person is held in jail or prison
 25 on or after July 1, 1996.

26 (2) A person convicted of a criminal law in effect before October
 27 1, 1977, that penalized an act substantially similar to a felony
 28 described in IC 35-42 or IC 35-43-2-1 or that would have been an
 29 included offense of a felony described in IC 35-42 or
 30 IC 35-43-2-1 if the felony had been in effect:

31 (A) after June 30, 1998, whether or not the person is sentenced
 32 to a term of imprisonment; ~~and or~~

33 (B) before July 1, 1998, if the person is held in jail or prison
 34 on or after July 1, 1998.

35 **(3) A person convicted of a felony, conspiracy to commit a**
 36 **felony, or attempt to commit a felony:**

37 **(A) after June 30, 2005, whether or not the person is**
 38 **sentenced to a term of imprisonment; or**

39 **(B) before July 1, 2005, if the person is held in jail or**
 40 **prison on or after July 1, 2005.**

41 (b) A person described in subsection (a) shall provide a DNA
 42 sample to the:

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1 (1) department of correction or the designee of the department of
2 correction if the offender is committed to the department of
3 correction; or
4 (2) county sheriff or the designee of the county sheriff if the
5 offender is held in a county jail or other county penal facility,
6 placed in a community corrections program (as defined in
7 IC 35-38-2.6-2), or placed on probation.
8 A ~~convicted~~ person is not required to submit a blood sample if doing
9 so would present a substantial and an unreasonable risk to the person's
10 health.
11 (c) **The detention, arrest, or conviction of a person based on a**
12 **data base match or data base information is not invalidated if a**
13 **court determines that the DNA sample was obtained or placed in**
14 **the Indiana DNA data base by mistake.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1241, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ULMER, Chair

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1241, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE JANUARY 1, 2006]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-6-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9.5. (a) The DNA sample processing fund is established for the purpose of funding the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under this chapter. The fund shall be administered by the superintendent.**

(b) The expenses of administering the fund shall be paid from money in the fund.

(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 money may be invested.

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

Page 2, after line 20, begin a new paragraph and insert:

"SECTION 3. IC 33-37-4-1, AS AMENDED BY P.L.85-2004, SECTION 16, AND AS AMENDED BY P.L.95-2004, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal**

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costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- (15) *A judicial administration fee under (IC 33-37-5-21.2).*
- ~~(15)~~ **(16) A judicial insurance adjustment fee under (IC 33-37-5-25).**
- (17) A DNA sample processing fee (IC 33-37-5-26).**

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

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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 4. IC 33-37-4-2, AS AMENDED BY P.L.85-2004, SECTION 17, AND AS AMENDED BY P.L.95-2004, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (5) A highway work zone fee (IC 33-37-5-14).

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- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee (~~IC 33-19-6-17~~); (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).
- (11) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).
- ~~(12)~~ **(12) A judicial insurance adjustment fee ~~under~~**
(IC 33-37-5-25).
- (13) A DNA sample processing fee (IC 33-37-5-26).**

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

- (1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (3) The deferral program fee (subsection (e)).

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

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

- (1) The defendant was charged with an ordinance violation subject to IC 33-36.
- (2) The defendant denied the violation under IC 33-36-3.
- (3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of ~~IC 34-28-5-4~~ **IC 34-28-5-5** and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

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SECTION 5. IC 33-37-4-3, AS AMENDED BY P.L.85-2004, SECTION 18, AND AS AMENDED BY P.L.95-2004, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

- (1) IC 31-34 (children in need of services).
- (2) IC 31-37 (delinquent children).
- (3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (6) A document storage fee (IC 33-37-5-20).
- (7) An automated record keeping fee (IC 33-37-5-21).
- (8) A late payment fee (IC 33-37-5-22).
- (9) *A judicial administration fee ~~under~~ (IC 33-37-5-21.2).*
- ~~(10) A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).~~
- (11) A DNA sample processing fee (IC 33-37-5-26).**

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

- (1) The marijuana eradication program fee (IC 33-37-5-7).
- (2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

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

SECTION 6. IC 33-37-5-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26. In each action in which a person is:**

- (1) convicted of an offense;**
- (2) required to pay a pretrial diversion fee;**

EH 1241—LS 7611/DI 107+



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**(3) found to have committed an infraction; or
(4) found to have violated an ordinance;
the clerk shall collect a DNA sample processing fee of one dollar (\$1).**

SECTION 7. IC 33-37-7-2, AS AMENDED BY P.L.85-2004, SECTION 25, AND AS AMENDED BY P.L.95-2004, SECTION 13, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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 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) (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) Fifty percent (50%) 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 (IC 33-37-5-21).

(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).

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- (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 fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) 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.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) 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) collected under IC 33-37-5-6.
- (2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS 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 office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

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(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

(i) *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 judicial administration fee collected under IC 33-37-5-21.2.*

~~(j)~~ **(j)** *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)~~ This section applies after June 30, 2005.

(k) 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 DNA sample processing fee collected under IC 33-37-5-26.

SECTION 8. IC 33-37-7-8, AS AMENDED BY P.L.85-2004, SECTION 27, AND AS AMENDED BY P.L.95-2004, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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 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) (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) (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).

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- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (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 corrections 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 (IC 33-37-5-21).

(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 late payment fees collected under IC 33-37-5-22. 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 judicial administration fee collected under IC 33-37-5-21.2.

~~(g)~~ **(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*

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hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

~~(h) This section applies after June 30, 2005.~~

(i) 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 DNA sample processing fee collected under IC 33-37-5-26.

SECTION 9. IC 33-37-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~six seven million seven hundred four thirty-nine thousand two hundred fifty-seven dollars (\$6,704,257)~~ **(\$7,039,257)** for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

- (1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to ~~eleven ten and eight-hundredths~~ **fifty-six hundredths** percent (~~11.08%~~); **(10.56%)**;
- (2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~twenty-five~~ **twenty-four** and ~~twenty-one~~ **two** hundredths percent (~~25.21%~~); **(24.02%)**;
- (3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to three and ~~fifty-two~~ **thirty-six** hundredths percent (~~3.52%~~); **(3.36%)**;
- (4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~fourteen~~ **thirteen** and ~~nineteen-hundredths~~ **fifty-two hundredths** percent (~~14.19%~~); **(13.52%)**;
- (5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~sixteen~~ **fifteen** and ~~fifty-hundredths~~ **seventy-two hundredths** percent (~~16.50%~~); **(15.72%)**;
- (6) the motor vehicle highway account an amount equal to ~~twenty-six~~ **twenty-five** and ~~ninety-five~~ **sixty-seven** hundredths percent (~~26.95%~~); **(25.67%)**;
- (7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~thirty-two hundredths~~ **thirty-one hundredths** of one percent (~~0.32%~~); **(0.31%)**; and
- (8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and ~~twenty-three~~ **thirteen** hundredths percent (~~2.23%~~); **(2.13%)**; and

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(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to four and seventy-one hundredths percent (4.71%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars (\$1,700,000); and

(2) after June 30, 2005, two million two hundred thousand dollars (\$2,200,000)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1241 as printed January 14, 2005.)

ESPICH, Chair

Committee Vote: yeas 20, nays 0.

SENATE MOTION

Madam President: I move that Senator Zakas be removed as second sponsor of Engrossed House Bill 1241.

ZAKAS

SENATE MOTION

Madam President: I move that Senator Bray be removed as sponsor of Engrossed House Bill 1241 and that Senator Zakas be substituted therefor.

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SENATE MOTION

Madam President: I move that Senator Bray be added as second sponsor of Engrossed House Bill 1241.

ZAKAS

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1241, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 34 and 35, begin a new paragraph and insert:

"(c) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake."

Page 3, line 25, delete "(IC 33-37-5-26)." and insert **"(IC 33-37-5-26.2)."**

Page 4, line 42, after "fee" strike "(IC".

Page 5, line 7, delete "(IC 33-37-5-26)." and insert **"(IC 33-37-5-26.2)."**

Page 6, line 25, delete "(IC 33-37-5-26)." and insert **"(IC 33-37-5-26.2)."**

Page 6, line 36, delete "IC 33-37-5-26" and insert "IC 33-37-5-26.2".

Page 6, line 38, delete "Sec. 26." and insert **"Sec. 26.2."**

Page 9, line 15, delete "IC 33-37-5-26" and insert **"IC 33-37-5-26.2"**.

Page 11, line 5, delete "IC 33-37-5-26" and insert **"IC 33-37-5-26.2"**.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1241 as printed February 15, 2005.)

LONG, Chairperson

Committee Vote: Yeas 7, Nays 0.

EH 1241—LS 7611/DI 107+

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SENATE MOTION

Madam President: I move that Senators Wyss, Breaux, Lanane, Hershman, Long, Mrvan, Howard, Antich-Carr, Jackman, Craycraft and Ford be added as cosponsors of Engrossed House Bill 1241.

ZAKAS

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1241, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 14 begin a new paragraph and insert:

"SECTION 1. IC 10-13-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The superintendent may establish a data base of DNA identification records of:

- (1) convicted criminals;
- (2) crime scene specimens;
- (3) unidentified missing persons; and
- (4) close biological relatives of missing persons.

(b) The superintendent shall maintain the Indiana DNA data base.

(c) The superintendent may contract for services to perform DNA analysis of convicted offenders under section 10 of this chapter to assist federal, state, and local criminal justice and law enforcement agencies in the putative identification, detection, or exclusion of individuals who are subjects of an investigation or prosecution of a sex offense, a violent crime, or another crime in which biological evidence is recovered from the crime scene.

(d) The superintendent:

- (1) may perform or contract for performance of testing, typing, or analysis of a DNA sample collected from a person described in section 10 of this chapter at any time; and**
- (2) shall perform or contract for the performance of testing, typing, or analysis of a DNA sample collected from a person described in section 10 of this chapter if federal funds become available for the performance of DNA testing, typing, or analysis.**

~~(d)~~ (e) The superintendent shall adopt rules under IC 4-22-2 necessary to administer and enforce the provisions and intent of this

EH 1241—LS 7611/DI 107+

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chapter.

(f) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake."

Page 2, delete lines 39 through 42.

Delete pages 3 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to EHB 1241 as printed March 18, 2005.)

MEEKS, Chairperson

Committee Vote: Yeas 11, Nays 0.

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