



Reprinted
February 28, 2012

ENGROSSED HOUSE BILL No. 1049

DIGEST OF HB 1049 (Updated February 27, 2012 5:34 pm - DI 69)

Citations Affected: IC 4-2; IC 4-6; IC 5-11; IC 12-23; IC 33-23; IC 33-34; IC 33-37; IC 34-26.

Synopsis: Courts, inspector general, pro bono legal services, and protection orders. Provides that the cap on the fees for program services provided to a person participating in a court established alcohol and drug services program does not apply to fees for education or treatment and rehabilitation services. Provides that a person may participate in a problem solving court program as a condition of an informal adjustment program in a child in need of services proceeding. Eliminates an individual's agreement to the conditions of participation in the program if the case for which the individual is referred to the
(Continued next page)

Effective: July 1, 2012.

Koch

(SENATE SPONSORS — BRAY, STEELE, LANANE, RANDOLPH)

January 9, 2012, read first time and referred to Committee on Judiciary.
January 25, 2012, amended, reported — Do Pass.
January 27, 2012, read second time, ordered engrossed. Engrossed.
January 30, 2012, read third time, passed. Yeas 92, nays 3.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Judiciary.
February 16, 2012, amended, reported favorably — Do Pass.
February 20, 2012, read second time, ordered engrossed. Engrossed.
February 23, 2012, returned to second reading.
February 27, 2012, re-read second time, amended, ordered engrossed.

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EH 1049—LS 6362/DI 107+



problem solving court involves a nonsuspendible sentence as a precondition to the placement of the individual in a problem solving court program. Allows a problem solving court to collect program fees. Authorizes the inspector general to directly institute civil proceedings against persons who have failed to pay civil penalties imposed by the state ethics commission. Requires the state board of accounts to provide to the inspector general (in addition to the attorney general) copies of certain reports concerning: (1) malfeasance, misfeasance, or nonfeasance in office by public officials or employees; (2) fraud or misconduct with respect to public contracts; or (3) unlawful expenditure or diversion of public money. Imposes until July 1, 2020, a pro bono legal services fee of \$1 on parties who file certain civil actions, small claims actions, and probate actions. Requires the pro bono legal services fees to be transferred to the Indiana Bar Foundation as the entity designated by the Indiana supreme court to organize and administer the interest on lawyers trust accounts (IOLTA) program. Requires the Indiana Bar Foundation to: (1) deposit in an appropriate account and otherwise manage the fees the foundation receives in the same manner it deposits and manages the net earnings the foundation receives from IOLTA accounts; and (2) use the fees the foundation receives to assist or establish approved pro bono legal services programs. Specifies that the handling and expenditure of the pro bono legal services fees received by the Indiana Bar Foundation are subject to audit by the state board of accounts. Allows victims of certain serious crimes or family members of such victims to obtain permanent orders for protection against the offenders who committed the crimes. Provides that a court: (1) must hold a hearing before issuing an order for protection; and (2) may modify an order for protection.

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February 28, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1049

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 4-2-7-6, AS ADDED BY P.L.222-2005, SECTION
2 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2012]: Sec. 6. (a) This section applies if the inspector general finds
4 evidence of misfeasance, malfeasance, nonfeasance, misappropriation,
5 fraud, or other misconduct that has resulted in a financial loss to the
6 state or in an unlawful benefit to an individual in the conduct of state
7 business.
8 (b) If the inspector general finds evidence described in subsection
9 (a), the inspector general shall certify a report of the matter to the
10 attorney general and provide the attorney general with any relevant
11 documents, transcripts, or written statements. Not later than one
12 hundred eighty (180) days after receipt of the report from the inspector
13 general, the attorney general shall do one (1) of the following:
14 (1) File a civil action (including an action upon a state officer's
15 official bond) to secure for the state the recovery of funds
16 misappropriated, diverted, missing, or unlawfully gained. Upon
17 request of the attorney general, the inspector general shall assist

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1 the attorney general in the investigation, preparation, and
2 prosecution of the civil action.

3 (2) Inform the inspector general that the attorney general does not
4 intend to file a civil action for the recovery of funds
5 misappropriated, diverted, missing, or unlawfully gained. If the
6 attorney general elects not to file a civil action, the attorney
7 general shall return to the inspector general all documents and
8 files initially provided by the inspector general.

9 (3) Inform the inspector general that the attorney general is
10 diligently investigating the matter and after further investigation
11 may file a civil action for the recovery of funds misappropriated,
12 diverted, missing, or unlawfully gained. However, if more than
13 three hundred sixty-five (365) days have passed since the
14 inspector general certified the report to the attorney general, the
15 attorney general loses the authority to file a civil action for the
16 recovery of funds misappropriated, diverted, missing, or
17 unlawfully gained and shall return to the inspector general all
18 documents and files initially provided by the inspector general.

19 (c) If the inspector general has found evidence described in
20 subsection (a) and reported to the attorney general under subsection (b)
21 and:

22 (1) the attorney general has elected under subsection (b)(2) not to
23 file a civil action for the recovery of funds misappropriated,
24 diverted, missing, or unlawfully gained; or

25 (2) under subsection (b)(3) more than three hundred sixty-five
26 (365) days have passed since the inspector general certified the
27 report to the attorney general under subsection (b) and the
28 attorney general has not filed a civil action;

29 the inspector general may file a civil action for the recovery of funds
30 misappropriated, diverted, missing, or unlawfully gained.

31 (d) If the inspector general has found evidence described in
32 subsection (a), the inspector general may institute forfeiture
33 proceedings under IC 34-24-2 in a court having jurisdiction in a county
34 where property derived from or realized through the misappropriation,
35 diversion, disappearance, or unlawful gain of state funds may be
36 located, unless a prosecuting attorney has already instituted forfeiture
37 proceedings against that property.

38 **(e) The inspector general may directly institute civil proceedings**
39 **against persons who have failed to pay civil penalties imposed by**
40 **the ethics commission under IC 4-2-6-12.**

41 SECTION 2. IC 4-6-3-2, AS AMENDED BY P.L.111-2009,
42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2012]: Sec. 2. (a) The attorney general shall have charge of
 2 and direct the prosecution of all civil actions that are brought in the
 3 name of the state of Indiana or any state agency.
 4 (b) In no instance under this section shall the state or a state agency
 5 be required to file a bond.
 6 (c) This section does not affect the authority of prosecuting
 7 attorneys to prosecute civil actions.
 8 (d) This section does not affect the authority of the inspector general
 9 to prosecute a civil action under IC 4-2-7-6 for the recovery of **either**
 10 **or both of the following:**
 11 (1) Funds misappropriated, diverted, missing, or unlawfully
 12 gained.
 13 (2) **A civil penalty imposed by the state ethics commission**
 14 **under IC 4-2-6-12.**
 15 (e) The attorney general may bring an action to collect unpaid
 16 registration fees owed by a commercial dog broker or a commercial
 17 dog breeder under IC 15-21.
 18 SECTION 3. IC 5-11-5-1, AS AMENDED BY P.L.176-2009,
 19 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2012]: Sec. 1. (a) Whenever an examination is made under
 21 this article, a report of the examination shall be made. The report must
 22 include a list of findings and shall be signed and verified by the
 23 examiner making the examination. A finding that is critical of an
 24 examined entity must be based upon one (1) of the following:
 25 (1) Failure of the entity to observe a uniform compliance
 26 guideline established under IC 5-11-1-24(a).
 27 (2) Failure of the entity to comply with a specific law.
 28 A report that includes a finding that is critical of an examined entity
 29 must designate the uniform compliance guideline or the specific law
 30 upon which the finding is based. The reports shall immediately be filed
 31 with the state examiner, and, after inspection of the report, the state
 32 examiner shall immediately file one (1) copy with the officer or person
 33 examined, one (1) copy with the auditing department of the
 34 municipality examined and reported upon, and one (1) copy in an
 35 electronic format under IC 5-14-6 of the reports of examination of state
 36 agencies, instrumentalities of the state, and federal funds administered
 37 by the state with the legislative services agency, as staff to the general
 38 assembly. Upon filing, the report becomes a part of the public records
 39 of the office of the state examiner, of the office or the person examined,
 40 of the auditing department of the municipality examined and reported
 41 upon, and of the legislative services agency, as staff to the general
 42 assembly. A report is open to public inspection at all reasonable times

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1 after it is filed. If an examination discloses malfeasance, misfeasance,
2 or nonfeasance in office or of any officer or employee, a copy of the
3 report, signed and verified, shall be placed by the state examiner with
4 the attorney general **and the inspector general**. The attorney general
5 shall diligently institute and prosecute civil proceedings against the
6 delinquent officer, or upon the officer's official bond, or both, and
7 against any other proper person that will secure to the state or to the
8 proper municipality the recovery of any funds misappropriated,
9 diverted, or unaccounted for.

10 (b) Before an examination report is signed, verified, and filed as
11 required by subsection (a), the officer or the chief executive officer of
12 the state office, municipality, or entity examined must have an
13 opportunity to review the report and to file with the state examiner a
14 written response to that report. If a written response is filed, it becomes
15 a part of the examination report that is signed, verified, and filed as
16 required by subsection (a).

17 (c) Except as required by subsections (b) and (d), it is unlawful for
18 any deputy examiner, field examiner, or private examiner, before an
19 examination report is made public as provided by this section, to make
20 any disclosure of the result of any examination of any public account,
21 except to the state examiner or if directed to give publicity to the
22 examination report by the state examiner or by any court. If an
23 examination report shows or discloses the commission of a crime by
24 any person, it is the duty of the state examiner to transmit and present
25 the examination report to the grand jury of the county in which the
26 crime was committed at its first session after the making of the
27 examination report and at any subsequent sessions that may be
28 required. The state examiner shall furnish to the grand jury all evidence
29 at the state examiner's command necessary in the investigation and
30 prosecution of the crime.

31 (d) If, during an examination under this article, a deputy examiner,
32 field examiner, or private examiner acting as an agent of the state
33 examiner determines that the following conditions are satisfied, the
34 examiner shall report the determination to the state examiner:

35 (1) A substantial amount of public funds has been
36 misappropriated or diverted.

37 (2) The deputy examiner, field examiner, or private examiner
38 acting as an agent of the state examiner has a reasonable belief
39 that the malfeasance or misfeasance that resulted in the
40 misappropriation or diversion of the public funds was committed
41 by the officer or an employee of the office.

42 (e) After receiving a preliminary report under subsection (d), the

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1 state examiner may provide a copy of the report to the attorney general.
 2 The attorney general may institute and prosecute civil proceedings
 3 against the delinquent officer or employee, or upon the officer's or
 4 employee's official bond, or both, and against any other proper person
 5 that will secure to the state or to the proper municipality the recovery
 6 of any funds misappropriated, diverted, or unaccounted for.

7 (f) In an action under subsection (e), the attorney general may attach
 8 the defendant's property under IC 34-25-2.

9 (g) A preliminary report under subsection (d) is confidential until
 10 the final report under subsection (a) is issued, unless the attorney
 11 general institutes an action under subsection (e) on the basis of the
 12 preliminary report.

13 SECTION 4. IC 5-11-6-1, AS AMENDED BY P.L.176-2009,
 14 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2012]: Sec. 1. (a) The state examiner, personally or through
 16 the deputy examiners, field examiners, or private examiners, upon the
 17 petition of twenty-five (25) interested taxpayers showing that effective
 18 local relief has not and cannot be obtained after due effort, shall make
 19 the inquiries, tests, examinations, and investigations that may be
 20 necessary to determine whether:

21 (1) any public contract has been regularly and lawfully executed
 22 and performed; or

23 (2) any public work, building, or structure has been or is being
 24 performed, built, or constructed in accordance with the terms and
 25 provisions of the contract, and in compliance with the plans and
 26 specifications, if any.

27 Upon a written petition of twenty-five (25) taxpayers, the state
 28 examiner may also require all plans, specifications, and estimates to be
 29 submitted to the state examiner for corrections and approval before a
 30 contract is awarded.

31 (b) The state examiner, deputy examiner, and any field examiner,
 32 when engaged in making an inquiry, test, examination, or investigation
 33 under subsection (a), is entitled to examine and inspect any public
 34 records, documents, data, contracts, plans, and specifications contained
 35 or found in any public office or other place pertaining or relating to the
 36 public contract or public work, building, or structure. In addition,
 37 subpoenas may be issued to witnesses to appear before the examiner in
 38 person or to produce books and papers for inspection and examination.
 39 The state examiner, deputy, field, and private examiner may administer
 40 oaths and examine witnesses under oath either orally or by
 41 interrogatories on all matters under examination and investigation.
 42 Under order of the state examiner, the examination may be transcribed,

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1 with the reasonable expense paid by the municipality in the same
2 manner as the compensation of the field examiner is paid.

3 (c) The state examiner, the deputy examiner, and a field examiner
4 may enforce attendance and answers to questions and interrogatories,
5 as provided by law, with respect to examinations and investigations
6 made by the state examiner, deputy examiner, field examiner, or
7 private examiner of public offices.

8 (d) The state examiner, deputy examiner, any field examiner, and
9 any private examiner, when making an examination or investigation
10 under subsection (a), shall examine, inspect, and test the public works,
11 buildings, or structures in the manner that the examiner sees fit to
12 determine whether it is being performed, built, or constructed
13 according to the contract and plans and specifications.

14 (e) The state examiner shall file a report covering any examination
15 or investigation that discloses:

16 (1) fraud, collusion, misconduct, or negligence in the letting or
17 the execution of any public contract or in the performance of any
18 of the terms and conditions of any public contract; or

19 (2) any failure to comply with the terms or conditions of any
20 public contract in the construction of any public work, building,
21 or structure or to perform, build, or construct it according to the
22 plans and specifications, if any, provided in the contract;
23 that causes loss, injury, waste, or damage to the state, the municipality,
24 taxing or assessment district, other public entity, or to its citizens, if it
25 is enforceable by assessment or taxation.

26 (f) The report must meet the following requirements:

27 (1) The report must be made, signed, and verified in
28 quadruplicate by the examiner making the examination.

29 (2) The report shall be filed promptly with the state examiner.

30 After inspection of the report, the state examiner shall file a copy of the
31 report promptly with the attorney general **and the inspector general**.

32 (g) The attorney general shall diligently institute and prosecute civil
33 proceedings against any or all officers, individuals, and persons in the
34 form and manner that the attorney general determines will secure a
35 proper recovery to the state, municipality, taxing or assessment district,
36 or other public entity injured, defrauded, or damaged by the matters in
37 the report. These prosecutions may be made by the attorney general and
38 the recovery may be had, either upon public official bonds, contractors'
39 bonds, surety or other bonds, or upon individual liability, either upon
40 contract or in tort, as the attorney general determines is wise. No action
41 or recovery in any form or manner, or against any party or parties,
42 precludes further or additional action or recovery in any other form or



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1 manner or against another party, either concurrently with or later found
2 necessary, to secure complete recovery and restitution with respect to
3 all matters exhibited, set out, or described in the report. The suits may
4 be brought in the name of the state on the relation of the attorney
5 general for the benefit of the state, or the municipality, taxing or
6 assessment district, or other public entity that may be proper. The
7 actions brought against any defendants may be joined, as to parties,
8 form, and causes of action, in the manner that the attorney general
9 decides.

10 (h) Any report described in this section or a copy duly certified by
11 the state examiner shall be taken and received in any and all courts of
12 this state as prima facie evidence of the facts stated and contained in
13 the reports.

14 (i) If an examination, investigation, or test is made without a petition
15 being first filed and the examination, investigation, or test shows that
16 the terms of the contract are being complied with, then the expense of
17 the examination, investigation, or test shall be paid by the state upon
18 vouchers approved by the state examiner from funds available for
19 contractual service of the state board of accounts. If such a report
20 shows misfeasance, malfeasance, or nonfeasance in public office or
21 shows that the terms of the plans and specifications under which a
22 contract has been awarded are not being complied with, it is unlawful
23 to make the report public until the report has been certified to the
24 attorney general.

25 (j) If, during an examination under this article, a deputy examiner,
26 field examiner, or private examiner acting as an agent of the state
27 examiner determines that all of the following conditions are satisfied,
28 the examiner shall report the determination to the state examiner:

29 (1) A substantial amount of public funds has been
30 misappropriated or diverted.

31 (2) The deputy examiner, field examiner, or private examiner
32 acting as an agent of the state examiner has a reasonable belief
33 that the malfeasance or misfeasance that resulted in the
34 misappropriation or diversion of public funds was committed by
35 the officer or an employee of the office.

36 (k) After receiving a preliminary report under subsection (j), the
37 state examiner may provide a copy of the report to the attorney general.
38 The attorney general may institute and prosecute civil proceedings
39 against the delinquent officer or employee, or upon the officer's or
40 employee's official bond, or both, and against any other proper person
41 that will secure to the state or to the proper municipality the recovery
42 of any funds misappropriated, diverted, or unaccounted for.



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1 (l) In an action under subsection (k), the attorney general may attach
2 the defendant's property under IC 34-25-2.

3 (m) A preliminary report under subsection (j) is confidential until
4 the final report under subsection (e) is issued, unless the attorney
5 general institutes an action under subsection (k) on the basis of the
6 preliminary report.

7 SECTION 5. IC 5-11-6-3 IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2012]: Sec. 3. If any examination or
9 investigation made by the state examiner personally or through a
10 deputy examiner, field examiner, or private examiner under ~~of~~ this
11 chapter or ~~of~~ **under** any other statute discloses:

12 (1) malfeasance, misfeasance, or nonfeasance in office or of any
13 officer or employee;

14 (2) that any public money has been:
15 (A) unlawfully expended, either by having been expended for
16 a purpose not authorized by law in an amount exceeding that
17 authorized by law, or by having been paid to a person not
18 lawfully entitled to receive it; or

19 (B) obtained by fraud or in any unlawful manner; or

20 (3) that any money has been wrongfully withheld from the public
21 treasury;

22 a duly verified copy of the report shall be submitted by the state
23 examiner to the attorney general, who shall institute and prosecute civil
24 proceedings as provided in section 1 of this chapter, **and to the**
25 **inspector general.**

26 SECTION 6. IC 12-23-14-16 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) The court may
28 require an eligible individual to pay a fee for a service of a program.

29 (b) If a fee is required, the court shall adopt by court rule a schedule
30 of fees to be assessed for program services.

31 (c) The fee for program services, **excluding reasonable fees for**
32 **education or treatment and rehabilitation services**, may not exceed
33 four hundred dollars (\$400).

34 (d) A fee collected **under this chapter** shall be deposited in the city
35 or county user fee fund.

36 SECTION 7. IC 33-23-16-13, AS ADDED BY P.L.108-2010,
37 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2012]: Sec. 13. An individual is eligible to participate in a
39 problem solving court program only if:

40 (1) the individual meets all of the eligibility criteria established by
41 the board under section 12 of this chapter;

42 (2) the judge of the problem solving court approves the admission

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1 of the individual to the problem solving court program; and
 2 (3) the individual is referred to the problem solving court as a
 3 result of at least one (1) of the following:

4 (A) A condition of a pretrial diversion program authorized by
 5 statute or authorized by the judge of the problem solving court
 6 and the prosecuting attorney.

7 (B) The procedure described in section 14 of this chapter.

8 (C) The procedure described in section 15 of this chapter.

9 (D) A condition of probation.

10 (E) A condition of participation in a community corrections
 11 program under IC 11-12-1.

12 (F) A condition of participation in a forensic diversion
 13 program under IC 11-12-3.7.

14 (G) A condition of a community transition program under
 15 IC 11-10-11.5.

16 (H) A condition of parole.

17 (I) An order in a dispositional decree under IC 31-34-20 to
 18 participate in a family dependency drug court if the individual
 19 is a parent, guardian, or another household member of a child
 20 adjudicated a child in need of services.

21 (J) A condition of an informal adjustment program under
 22 IC 31-37-9.

23 (K) Involvement in:

24 (i) a child support proceeding;

25 (ii) a mental health commitment; or

26 (iii) a civil protection proceeding.

27 **(L) A condition of an informal adjustment program under**
 28 **IC 31-34-8.**

29 SECTION 8. IC 33-23-16-15, AS AMENDED BY P.L.187-2011,
 30 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2012]: Sec. 15. (a) A problem solving court may place an
 32 individual in a problem solving court program under this section ~~only~~
 33 if

34 ~~(1)~~ the individual is convicted of an offense that is
 35 nonsuspendible and the individual meets the conditions for
 36 eligibility set forth in section 13(1) and 13(2) of this chapter. ~~and~~
 37 ~~(2) the individual agrees to the conditions of participation in the~~
 38 ~~problem solving court program:~~

39 (b) If the requirements of subsection (a) are met, ~~in the case of an~~
 40 ~~individual~~, the court may:

41 (1) order the execution of the individual's nonsuspendible
 42 sentence and stay execution of all or part of the nonsuspendible

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1 part of the individual's sentence pending the individual's
 2 successful completion of a problem solving court program; and
 3 (2) suspend all or part of the suspendible part of the individual's
 4 nonsuspendible sentence, place the individual on probation for
 5 the suspended part of the sentence, and require as a condition of
 6 probation that the person successfully complete a problem solving
 7 court program.

8 (c) If an individual has been terminated from a problem solving
 9 court program under this section as provided in section 14.5 of this
 10 chapter, the **problem solving** court may:

11 (1) if the person is serving the nonsuspendible part of the person's
 12 sentence:

13 (A) lift the stay of execution of the nonsuspendible part of the
 14 individual's sentence and order the individual to serve all or a
 15 part of the nonsuspendible sentence; or

16 (B) otherwise dispose of the case; or

17 (2) if the individual is serving the suspendible part of the
 18 individual's sentence:

19 (A) order all or a part of the individual's suspendible sentence
 20 to be executed; or

21 (B) otherwise dispose of the case.

22 (d) If an individual successfully completes a problem solving court
 23 program under this section, the **problem solving** court may:

24 (1) waive execution of the nonsuspendible part of the individual's
 25 sentence; or

26 (2) otherwise dispose of the case.

27 SECTION 9. IC 33-23-16-23, AS ADDED BY P.L.108-2010,
 28 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2012]: Sec. 23. (a) The board shall adopt rules establishing a
 30 range of fees that may be assessed to an eligible individual to receive
 31 problem solving court services under this chapter.

32 (b) A court that has established a problem solving court under this
 33 chapter may require eligible individuals to pay a fee for problem
 34 solving court services.

35 (c) If a fee is required under subsection (b), the court shall adopt by
 36 local court rule a schedule of fees, consistent with the rules adopted by
 37 the board under subsection (a), to be assessed for problem solving court
 38 services.

39 (d) The **problem solving court or the** clerk of the court shall
 40 collect fees under this section. **If the problem solving court collects**
 41 **fees under this section, the problem solving court shall transfer all**
 42 **collected fees to the clerk of the court not later than fourteen (14)**

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1 **days after the fees are collected.** The clerk of the court shall ~~transmit~~
2 **transfer** the fees within thirty (30) days after the fees are collected, for
3 deposit by the auditor or fiscal officer in the appropriate user fee fund
4 established under IC 33-37-8.

5 (e) Fees collected under this section must be used only to fund
6 problem solving court services under this chapter.

7 SECTION 10. IC 33-23-16-23.5, AS ADDED BY P.L.187-2011,
8 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2012]: Sec. 23.5. (a) A parent or guardian of a child:

- 10 (1) who is:
11 (A) adjudicated a delinquent child; or
12 (B) in a program of informal adjustment approved by a
13 juvenile court under IC 31-37-9; and

14 (2) who is accepted into a problem solving court program;
15 is financially responsible for the problem solving court services fee and
16 chemical testing expenses assessed against the child by the problem
17 solving court under this chapter.

18 (b) A parent or guardian of a child described in subsection (a) shall,
19 before a hearing under subsection (c) concerning payment of fees and
20 expenses assessed against the child, provide financial information to
21 the problem solving court as ordered by the problem solving court.

22 (c) The problem solving court shall hold a hearing and may order
23 the parent or guardian to pay fees and expenses assessed against a child
24 described in subsection (a) unless the problem solving court makes a
25 specific finding that:

- 26 (1) the parent or guardian is unable to pay the fees or expenses;
27 or
28 (2) justice would not be served by ordering the parent or guardian
29 to pay the fees or expenses.

30 (d) If a parent or guardian is ordered to pay fees or expenses under
31 this section, the parent or guardian shall pay the fees or expenses to **the**
32 **problem solving court or** the clerk of the court. The problem solving
33 court shall keep a record of all payments made under this section by
34 each parent or guardian. When a child is discharged from a problem
35 solving court program, the problem solving court shall determine the
36 amount of any unpaid fees or expenses a parent or guardian owes under
37 this section. The problem solving court may reduce the unpaid balance
38 to a final judgment that may be enforced in any court that has
39 appropriate jurisdiction.

40 SECTION 11. IC 33-34-8-1, AS AMENDED BY P.L.176-2005,
41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2012]: Sec. 1. (a) The following fees and costs apply to cases

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- 1 in the small claims court:
- 2 (1) A township docket fee of five dollars (\$5) plus forty-five
- 3 percent (45%) of the infraction or ordinance violation costs fee
- 4 under IC 33-37-4-2.
- 5 (2) The bailiff's service of process by registered or certified mail
- 6 fee of thirteen dollars (\$13) for each service.
- 7 (3) The cost for the personal service of process by the bailiff or
- 8 other process server of thirteen dollars (\$13) for each service.
- 9 (4) Witness fees, if any, in the amount provided by IC 33-37-10-3
- 10 to be taxed and charged in the circuit court.
- 11 (5) A redocketing fee, if any, of five dollars (\$5).
- 12 (6) A document storage fee under IC 33-37-5-20.
- 13 (7) An automated record keeping fee under IC 33-37-5-21.
- 14 (8) A late fee, if any, under IC 33-37-5-22.
- 15 (9) A public defense administration fee under IC 33-37-5-21.2.
- 16 (10) A judicial insurance adjustment fee under IC 33-37-5-25.
- 17 (11) A judicial salaries fee under IC 33-37-5-26.
- 18 (12) A court administration fee under IC 33-37-5-27.
- 19 **(13) Before July 1, 2020, a pro bono legal services fee under**
- 20 **IC 33-37-5-31.**

21 The docket fee and the cost for the initial service of process shall be
 22 paid at the institution of a case. The cost of service after the initial
 23 service shall be assessed and paid after service has been made. The
 24 cost of witness fees shall be paid before the witnesses are called.

25 (b) If the amount of the township docket fee computed under
 26 subsection (a)(1) is not equal to a whole number, the amount shall be
 27 rounded to the next highest whole number.

28 SECTION 12. IC 33-34-8-3, AS AMENDED BY P.L.182-2009(ss),
 29 SECTION 391, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Payment for all costs made as
 31 a result of proceedings in a small claims court shall be to the _____
 32 Township of Marion County Small Claims Court (with the name of the
 33 township inserted). The court shall issue a receipt for all money
 34 received on a form numbered serially in duplicate. All township docket
 35 fees and late fees received by the court shall be paid to the township
 36 trustee at the close of each month.

- 37 (b) The court shall:
- 38 (1) semiannually distribute to the auditor of state:
- 39 (A) all automated record keeping fees (IC 33-37-5-21)
- 40 received by the court for deposit in the homeowner protection
- 41 unit account established by IC 4-6-12-9 and the state user fee
- 42 fund established under IC 33-37-9;

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- 1 (B) all public defense administration fees collected by the
- 2 court under IC 33-37-5-21.2 for deposit in the state general
- 3 fund;
- 4 (C) sixty percent (60%) of all court administration fees
- 5 collected by the court under IC 33-37-5-27 for deposit in the
- 6 state general fund;
- 7 (D) all judicial insurance adjustment fees collected by the
- 8 court under IC 33-37-5-25 for deposit in the judicial branch
- 9 insurance adjustment account established by IC 33-38-5-8.2;
- 10 **and**
- 11 (E) seventy-five percent (75%) of all judicial salaries fees
- 12 collected by the court under IC 33-37-5-26 for deposit in the
- 13 state general fund; **and**
- 14 **(F) one hundred percent (100%) of the pro bono legal**
- 15 **services fees collected before July 1, 2020, by the court**
- 16 **under IC 33-37-5-31; and**
- 17 (2) distribute monthly to the county auditor all document storage
- 18 fees received by the court.

19 The remaining twenty-five percent (25%) of the judicial salaries fees
 20 described in subdivision (1)(E) shall be deposited monthly in the
 21 township general fund of the township in which the court is located.
 22 The county auditor shall deposit fees distributed under subdivision (2)
 23 into the clerk's record perpetuation fund under IC 33-37-5-2.

24 (c) The court semiannually shall pay to the township trustee of the
 25 township in which the court is located the remaining forty percent
 26 (40%) of the court administration fees described under subsection
 27 (b)(1)(C) to fund the operations of the small claims court in the
 28 trustee's township.

29 SECTION 13. IC 33-37-4-4, AS AMENDED BY P.L.105-2009,
 30 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2012]: Sec. 4. (a) The clerk shall collect a civil costs fee of
 32 one hundred dollars (\$100) from a party filing a civil action. This
 33 subsection does not apply to the following civil actions:

- 34 (1) Proceedings to enforce a statute defining an infraction under
- 35 IC 34-28-5 (or IC 34-4-32 before its repeal).
- 36 (2) Proceedings to enforce an ordinance under IC 34-28-5 (or
- 37 IC 34-4-32 before its repeal).
- 38 (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- 39 (4) Proceedings in paternity under IC 31-14.
- 40 (5) Proceedings in small claims court under IC 33-34.
- 41 (6) Proceedings in actions described in section 7 of this chapter.
- 42 (b) In addition to the civil costs fee collected under this section, the

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1 clerk shall collect the following fees, if they are required under
2 IC 33-37-5:

- 3 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
4 IC 33-37-5-4).
- 5 (2) A support and maintenance fee (IC 33-37-5-6).
- 6 (3) A document storage fee (IC 33-37-5-20).
- 7 (4) An automated record keeping fee (IC 33-37-5-21).
- 8 (5) A public defense administration fee (IC 33-37-5-21.2).
- 9 (6) A judicial insurance adjustment fee (IC 33-37-5-25).
- 10 (7) A judicial salaries fee (IC 33-37-5-26).
- 11 (8) A court administration fee (IC 33-37-5-27).
- 12 (9) A service fee (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).
- 13 (10) A garnishee service fee (IC 33-37-5-28(b)(3) or
14 IC 33-37-5-28(b)(4)).
- 15 (11) For a mortgage foreclosure action filed after June 30, 2009,
16 and before January 1, 2013, a mortgage foreclosure counseling
17 and education fee (IC 33-37-5-30 (before its expiration on
18 January 1, 2013)).
- 19 **(12) Before July 1, 2020, a pro bono legal services fee**
20 **(IC 33-37-5-31).**

21 SECTION 14. IC 33-37-4-6, AS AMENDED BY P.L.174-2006,
22 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2012]: Sec. 6. (a) For each small claims action, the clerk shall
24 collect the following fees:

- 25 (1) From the party filing the action:
 - 26 (A) a small claims costs fee of thirty-five dollars (\$35);
 - 27 (B) a small claims service fee of ten dollars (\$10) for each
28 named defendant that is not a garnishee defendant; and
 - 29 (C) if the party has named more than three (3) garnishees or
30 garnishee defendants, a small claims garnishee service fee of
31 ten dollars (\$10) for each garnishee or garnishee defendant in
32 excess of three (3).
- 33 (2) From any party adding a defendant that is not a garnishee
34 defendant, a small claims service fee of ten dollars (\$10) for each
35 defendant that is not a garnishee defendant added in the action.
- 36 (3) From any party adding a garnishee or garnishee defendant, a
37 small claims garnishee service fee of ten dollars (\$10) for each
38 garnishee or garnishee defendant added to the action. However,
39 a clerk may not collect a small claims garnishee service fee for the
40 first three (3) garnishees named in the action.

41 However, a clerk may not collect a small claims costs fee, small claims
42 service fee, or small claims garnishee service fee for a small claims

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- 1 action filed by or on behalf of the attorney general.
- 2 (b) In addition to a small claims costs fee, small claims service fee,
- 3 and small claims garnishee service fee collected under this section, the
- 4 clerk shall collect the following fees, if they are required under
- 5 IC 33-37-5:
- 6 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
- 7 IC 33-37-5-4).
- 8 (2) A document storage fee (IC 33-37-5-20).
- 9 (3) An automated record keeping fee (IC 33-37-5-21).
- 10 (4) A public defense administration fee (IC 33-37-5-21.2).
- 11 (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- 12 (6) A judicial salaries fee (IC 33-37-5-26).
- 13 (7) A court administration fee (IC 33-37-5-27).
- 14 **(8) Before July 1, 2020, a pro bono legal services fee**
- 15 **(IC 33-37-5-31).**
- 16 SECTION 15. IC 33-37-4-7, AS AMENDED BY P.L.176-2005,
- 17 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2012]: Sec. 7. (a) Except as provided under subsection (c), the
- 19 clerk shall collect from the party filing the action a probate costs fee of
- 20 one hundred twenty dollars (\$120) for each action filed under any of
- 21 the following:
- 22 (1) IC 6-4.1-5 (determination of inheritance tax).
- 23 (2) IC 29 (probate).
- 24 (3) IC 30 (trusts and fiduciaries).
- 25 (b) In addition to the probate costs fee collected under subsection
- 26 (a), the clerk shall collect from the party filing the action the following
- 27 fees, if they are required under IC 33-37-5:
- 28 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
- 29 IC 33-37-5-4).
- 30 (2) A document storage fee (IC 33-37-5-20).
- 31 (3) An automated record keeping fee (IC 33-37-5-21).
- 32 (4) A public defense administration fee (IC 33-37-5-21.2).
- 33 (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- 34 (6) A judicial salaries fee (IC 33-37-5-26).
- 35 (7) A court administration fee (IC 33-37-5-27).
- 36 **(8) Before July 1, 2020, a pro bono legal services fee**
- 37 **(IC 33-37-5-31).**
- 38 (c) A clerk may not collect a court costs fee for the filing of the
- 39 following exempted actions:
- 40 (1) Petition to open a safety deposit box.
- 41 (2) Filing an inheritance tax return, unless proceedings other than
- 42 the court's approval of the return become necessary.

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1 (3) Offering a will for probate under IC 29-1-7, unless
2 proceedings other than admitting the will to probate become
3 necessary.

4 SECTION 16. IC 33-37-5-31 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2012]: **Sec. 31. In each:**

7 (1) **civil action in which the clerk is required to collect a civil
8 costs fee under IC 33-37-4-4(a);**

9 (2) **small claims action in which:**
10 (A) **a party is required to pay a township docket fee under
11 IC 33-34-8-1(a)(1); or**

12 (B) **the clerk is required to collect a small claims costs fee
13 under IC 33-37-4-6; or**

14 (3) **probate action in which the clerk is required to collect a
15 probate costs fee under IC 33-37-4-7(a);**

16 **the clerk shall, before July 1, 2020, collect a pro bono legal services
17 fee of one dollar (\$1).**

18 SECTION 17. IC 33-37-7-2, AS AMENDED BY P.L.229-2011,
19 SECTION 260, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The clerk of a circuit court
21 shall distribute semiannually to the auditor of state as the state share for
22 deposit in the homeowner protection unit account established by
23 IC 4-6-12-9 one hundred percent (100%) of the automated record
24 keeping fees collected under IC 33-37-5-21 with respect to actions
25 resulting in the accused person entering into a pretrial diversion
26 program agreement under IC 33-39-1-8 or a deferral program
27 agreement under IC 34-28-5-1 and for deposit in the state general fund
28 seventy percent (70%) of the amount of fees collected under the
29 following:

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

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

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

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

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

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

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

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

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

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- 1 (2) Twenty-five percent (25%) of the alcohol and drug
- 2 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 3 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 4 (3) Fifty percent (50%) of the child abuse prevention fees
- 5 collected under IC 33-37-4-1(b)(7).
- 6 (4) One hundred percent (100%) of the domestic violence
- 7 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- 8 (5) One hundred percent (100%) of the highway work zone fees
- 9 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 10 (6) One hundred percent (100%) of the safe schools fee collected
- 11 under IC 33-37-5-18.
- 12 (7) The following:
- 13 (A) For a county operating under the state's automated judicial
- 14 system, one hundred percent (100%) of the automated record
- 15 keeping fee (IC 33-37-5-21) not distributed under subsection
- 16 (a).
- 17 (B) For a county not operating under the state's automated
- 18 judicial system, eighty percent (80%) of the automated record
- 19 keeping fee (IC 33-37-5-21) not distributed under subsection
- 20 (a).
- 21 (c) The clerk of a circuit court shall distribute monthly to the county
- 22 auditor the following:
- 23 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
- 24 interdiction, and correction fees collected under
- 25 IC 33-37-4-1(b)(5).
- 26 (2) Seventy-five percent (75%) of the alcohol and drug
- 27 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 28 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 29 The county auditor shall deposit fees distributed by a clerk under this
- 30 subsection into the county drug free community fund established under
- 31 IC 5-2-11.
- 32 (d) The clerk of a circuit court shall distribute monthly to the county
- 33 auditor fifty percent (50%) of the child abuse prevention fees collected
- 34 under IC 33-37-4-1(b)(7). The county auditor shall deposit fees
- 35 distributed by a clerk under this subsection into the county child
- 36 advocacy fund established under IC 12-17-17.
- 37 (e) The clerk of a circuit court shall distribute monthly to the county
- 38 auditor one hundred percent (100%) of the late payment fees collected
- 39 under IC 33-37-5-22. The county auditor shall deposit fees distributed
- 40 by a clerk under this subsection as follows:
- 41 (1) If directed to do so by an ordinance adopted by the county
- 42 fiscal body, the county auditor shall deposit forty percent (40%)

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- 1 of the fees in the clerk's record perpetuation fund established
- 2 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
- 3 county general fund.
- 4 (2) If the county fiscal body has not adopted an ordinance
- 5 described in subdivision (1), the county auditor shall deposit all
- 6 the fees in the county general fund.
- 7 (f) The clerk of the circuit court shall distribute semiannually to the
- 8 auditor of state for deposit in the sexual assault victims assistance
- 9 account established by IC 5-2-6-23(h) one hundred percent (100%) of
- 10 the sexual assault victims assistance fees collected under
- 11 IC 33-37-5-23.
- 12 (g) The clerk of a circuit court shall distribute monthly to the county
- 13 auditor the following:
- 14 (1) One hundred percent (100%) of the support and maintenance
- 15 fees for cases designated as non-Title IV-D child support cases in
- 16 the Indiana support enforcement tracking system (ISETS)
- 17 collected under IC 33-37-5-6.
- 18 (2) The percentage share of the support and maintenance fees for
- 19 cases designated as IV-D child support cases in ISETS collected
- 20 under IC 33-37-5-6 that is reimbursable to the county at the
- 21 federal financial participation rate.
- 22 The county clerk shall distribute monthly to the office of the secretary
- 23 of family and social services the percentage share of the support and
- 24 maintenance fees for cases designated as Title IV-D child support cases
- 25 in ISETS collected under IC 33-37-5-6 that is not reimbursable to the
- 26 county at the applicable federal financial participation rate.
- 27 (h) The clerk of a circuit court shall distribute monthly to the county
- 28 auditor the following:
- 29 (1) One hundred percent (100%) of the small claims service fee
- 30 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in
- 31 the county general fund.
- 32 (2) One hundred percent (100%) of the small claims garnishee
- 33 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for
- 34 deposit in the county general fund.
- 35 (i) This subsection does not apply to court administration fees
- 36 collected in small claims actions filed in a court described in IC 33-34.
- 37 The clerk of a circuit court shall semiannually distribute to the auditor
- 38 of state for deposit in the state general fund one hundred percent
- 39 (100%) of the following:
- 40 (1) The public defense administration fee collected under
- 41 IC 33-37-5-21.2.
- 42 (2) The judicial salaries fees collected under IC 33-37-5-26.

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- 1 (3) The DNA sample processing fees collected under
- 2 IC 33-37-5-26.2.
- 3 (4) The court administration fees collected under IC 33-37-5-27.
- 4 (j) The clerk of a circuit court shall semiannually distribute to the
- 5 auditor of state for deposit in the judicial branch insurance adjustment
- 6 account established by IC 33-38-5-8.2 one hundred percent (100%) of
- 7 the judicial insurance adjustment fee collected under IC 33-37-5-25.
- 8 (k) The proceeds of the service fee collected under
- 9 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as
- 10 follows:
- 11 (1) The clerk shall distribute one hundred percent (100%) of the
- 12 service fees collected in a circuit, superior, county, or probate
- 13 court to the county auditor for deposit in the county general fund.
- 14 (2) The clerk shall distribute one hundred percent (100%) of the
- 15 service fees collected in a city or town court to the city or town
- 16 fiscal officer for deposit in the city or town general fund.
- 17 (l) The proceeds of the garnishee service fee collected under
- 18 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
- 19 follows:
- 20 (1) The clerk shall distribute one hundred percent (100%) of the
- 21 garnishee service fees collected in a circuit, superior, county, or
- 22 probate court to the county auditor for deposit in the county
- 23 general fund.
- 24 (2) The clerk shall distribute one hundred percent (100%) of the
- 25 garnishee service fees collected in a city or town court to the city
- 26 or town fiscal officer for deposit in the city or town general fund.
- 27 (m) The clerk of the circuit court shall distribute semiannually to the
- 28 auditor of state for deposit in the home ownership education account
- 29 established by IC 5-20-1-27 one hundred percent (100%) of the
- 30 following:
- 31 (1) The mortgage foreclosure counseling and education fees
- 32 collected under IC 33-37-5-30 (before its expiration on January
- 33 1, 2013).
- 34 (2) Any civil penalties imposed and collected by a court for a
- 35 violation of a court order in a foreclosure action under
- 36 IC 32-30-10.5.
- 37 (n) This subsection applies to a county that is not operating under
- 38 the state's automated judicial system. The clerk of a circuit court shall
- 39 distribute monthly to the county auditor twenty percent (20%) of the
- 40 automated record keeping fee (IC 33-37-5-21) not distributed under
- 41 subsection (a) for deposit in the clerk's record perpetuation fund.
- 42 (o) **The clerk of a circuit court shall distribute semiannually to**

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1 the auditor of state one hundred percent (100%) of the pro bono
 2 legal services fees collected before July 1, 2020, under
 3 IC 33-37-5-31. The auditor of state shall transfer semiannually the
 4 pro bono legal services fees to the Indiana Bar Foundation (or a
 5 successor entity) as the entity designated to organize and
 6 administer the interest on lawyers trust accounts (IOLTA)
 7 program under Rule 1.15 of the Rules of Professional Conduct of
 8 the Indiana supreme court. The Indiana Bar Foundation shall:

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

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

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

22 SECTION 18. IC 33-37-7-8, AS AMENDED BY P.L. 182-2009(ss),
 23 SECTION 396, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) The clerk of a city or town
 25 court shall distribute semiannually to the auditor of state as the state
 26 share for deposit in the homeowner protection unit account established
 27 by IC 4-6-12-9 one hundred percent (100%) of the automated record
 28 keeping fees collected under IC 33-37-5-21 with respect to actions
 29 resulting in the accused person entering into a pretrial diversion
 30 program agreement under IC 33-39-1-8 or a deferral program
 31 agreement under IC 34-28-5-1 and for deposit in the state general fund
 32 fifty-five percent (55%) of the amount of fees collected under the
 33 following:

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

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

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

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

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

39 (b) The city or town fiscal officer shall distribute monthly to the
 40 county auditor as the county share twenty percent (20%) of the amount
 41 of fees collected under the following:

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

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

5 (c) The city or town fiscal officer shall retain twenty-five percent
 6 (25%) as the city or town share of the fees collected under the
 7 following:

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

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

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

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

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

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

39 (f) The clerk of a city or town court shall distribute monthly to the
 40 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
 41 percent (100%) of the following:

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

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

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

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

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

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

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

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

16 (h) The clerk of a city or town court shall semiannually distribute to
17 the auditor of state for deposit in the judicial branch insurance
18 adjustment account established by IC 33-38-5-8.2 one hundred percent
19 (100%) of the judicial insurance adjustment fee collected under
20 IC 33-37-5-25.

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

28 **(j) The clerk of a city or town court shall distribute**
29 **semiannually to the auditor of state one hundred percent (100%)**
30 **of the pro bono legal services fees collected before July 1, 2020,**
31 **under IC 33-37-5-31. The auditor of state shall transfer**
32 **semiannually the pro bono legal services fees to the Indiana Bar**
33 **Foundation (or a successor entity) as the entity designated to**
34 **organize and administer the interest on lawyers trust accounts**
35 **(IOLTA) program under Rule 1.15 of the Rules of Professional**
36 **Conduct of the Indiana supreme court. The Indiana Bar**
37 **Foundation shall:**

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



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1 **(2) use the fees the Indiana Bar Foundation receives under**
2 **this subsection to assist or establish approved pro bono legal**
3 **services programs.**
4 **The handling and expenditure of the pro bono legal services fees**
5 **received under this section by the Indiana Bar Foundation (or its**
6 **successor entity) are subject to audit by the state board of**
7 **accounts. The amounts necessary to make the transfers required**
8 **by this subsection are appropriated from the state general fund.**
9 SECTION 19. IC 34-26-5-3, AS AMENDED BY P.L.130-2009,
10 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2012]: Sec. 3. (a) The division of state court administration
12 shall:
13 (1) develop and adopt:
14 (A) a petition for an order for protection;
15 (B) an order for protection, including:
16 (i) orders issued under this chapter;
17 (ii) ex parte orders;
18 (iii) no contact orders under IC 31 and IC 35;
19 (iv) forms relating to workplace violence restraining orders
20 under IC 34-26-6; ~~and~~
21 (v) forms relating to a child protective order under
22 IC 31-34-2.3; **and**
23 **(vi) forms relating to victims of serious crimes protection**
24 **orders under IC 34-26-7;**
25 (C) a confidential form;
26 (D) a notice of modification or extension for an order for
27 protection, a no contact order, a workplace violence restraining
28 order, ~~or~~ a child protective order, **or a victims of serious**
29 **crimes protection orders;**
30 (E) a notice of termination for an order for protection, a no
31 contact order, a workplace violence restraining order, ~~or~~ a
32 child protective order, **or a victims of serious crimes**
33 **protection orders; and**
34 (F) any other uniform statewide forms necessary to maintain
35 an accurate registry of orders; and
36 (2) provide the forms under subdivision (1) to the clerk of each
37 court authorized to issue the orders.
38 (b) In addition to any other required information, a petition for an
39 order for protection must contain a statement listing each civil or
40 criminal action involving:
41 (1) either party; or
42 (2) a child of either party.

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1 (c) The following statements must be printed in boldface type or in
2 capital letters on an order for protection, a no contact order, a
3 workplace violence restraining order, ~~or~~ a child protective order, **or a**
4 **victims of serious crimes protection orders:**

5 VIOLATION OF THIS ORDER IS PUNISHABLE BY
6 CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

7 IF SO ORDERED BY THE COURT, THE RESPONDENT IS
8 FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S
9 RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE
10 SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY
11 THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT
12 IS THE ORDER FOR PROTECTION VOIDED.

13 PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR
14 PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT
15 IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE
16 ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT
17 STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g),
18 ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS
19 ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A
20 FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR
21 POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF
22 THE PROTECTED PERSON IS:

23 (A) THE RESPONDENT'S CURRENT OR FORMER
24 SPOUSE;

25 (B) A CURRENT OR FORMER PERSON WITH WHOM
26 THE RESPONDENT RESIDED WHILE IN AN INTIMATE
27 RELATIONSHIP; OR

28 (C) A PERSON WITH WHOM THE RESPONDENT HAS A
29 CHILD.

30 INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT
31 THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES
32 UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

33 (d) The clerk of the circuit court, or a person or entity designated by
34 the clerk of the circuit court, shall provide to a person requesting an
35 order for protection:

36 (1) the forms adopted under subsection (a);

37 (2) all other forms required to petition for an order for protection,
38 including forms:

39 (A) necessary for service; and

40 (B) required under IC 31-21 (or IC 31-17-3 before its repeal);
41 and

42 (3) clerical assistance in reading or completing the forms and

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1 filing the petition.
 2 Clerical assistance provided by the clerk or court personnel under this
 3 section does not constitute the practice of law. The clerk of the circuit
 4 court may enter into a contract with a person or another entity to
 5 provide this assistance. A person, other than a person or other entity
 6 with whom the clerk has entered into a contract to provide assistance,
 7 who in good faith performs the duties the person is required to perform
 8 under this subsection is not liable for civil damages that might
 9 otherwise be imposed on the person as a result of the performance of
 10 those duties unless the person commits an act or omission that amounts
 11 to gross negligence or willful and wanton misconduct.

- 12 (e) A petition for an order for protection must be:
 13 (1) verified or under oath under Trial Rule 11; and
 14 (2) issued on the forms adopted under subsection (a).
 15 (f) If an order for protection is issued under this chapter, the clerk
 16 shall comply with IC 5-2-9.
 17 (g) After receiving a petition for an order for protection, the clerk of
 18 the circuit court shall immediately enter the case in the Indiana
 19 protective order registry established by IC 5-2-9-5.5.

20 SECTION 20. IC 34-26-5-18, AS AMENDED BY P.L.1-2010,
 21 SECTION 136, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2012]: Sec. 18. The following orders are
 23 required to be entered into the Indiana data and communication system
 24 (IDACS) by a county sheriff or local law enforcement agency:

- 25 (1) A no contact order issued under IC 31-32-13 in a juvenile
 26 case.
 27 (2) A no contact order issued under IC 31-34-20 in a child in need
 28 of services (CHINS) case.
 29 (3) A no contact order issued under IC 31-34-25 in a CHINS case.
 30 (4) A no contact order issued under IC 31-37-19 in a delinquency
 31 case.
 32 (5) A no contact order issued under IC 31-37-25 in a delinquency
 33 case.
 34 (6) A no contact order issued under IC 33-39-1-8 in a criminal
 35 case.
 36 (7) An order for protection issued under this chapter.
 37 (8) A workplace violence restraining order issued under
 38 IC 34-26-6.
 39 (9) A no contact order issued under IC 35-33-8-3.2 in a criminal
 40 case.
 41 (10) A no contact order issued under IC 35-38-2-2.3 in a criminal
 42 case.

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- 1 (11) A child protective order issued under IC 31-34-2.3.
- 2 (12) A foreign protective order registered under section 17 of this
- 3 chapter.
- 4 **(13) A victims of serious crimes protection order issued under**
- 5 **IC 34-26-7.**

6 SECTION 21. IC 34-26-7 IS ADDED TO THE INDIANA CODE
 7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2012]:

9 **Chapter 7. Victims of Serious Crimes Protection Order**

10 **Sec. 1. As used in this chapter, "family member" means the**
 11 **spouse, child, sibling, parent, grandparent, or grandchild of the**
 12 **victim of a serious crime. The term includes stepparents,**
 13 **stepchildren, stepsiblings, and adoptive relationships.**

14 **Sec. 2. As used in this chapter, "serious offender" means a**
 15 **person who has been convicted of one (1) or more of the following**
 16 **crimes:**

- 17 (1) Murder (IC 35-42-1-1).
- 18 (2) Rape (IC 35-42-4-1).
- 19 (3) Criminal deviate conduct (IC 35-42-4-2).
- 20 (4) Child molesting (IC 35-42-4-3).
- 21 (5) An attempt or conspiracy to commit a crime described in
- 22 this section.
- 23 (6) A crime committed in another jurisdiction that is
- 24 substantially similar to a crime described in this section.

25 **Sec. 3. As used in this chapter, "victim" or "victim of a serious**
 26 **crime" means a person who is the victim of a crime described in**
 27 **section 2 of this chapter.**

28 **Sec. 4. (a) A victim or family member may obtain a permanent**
 29 **order for protection against the serious offender who committed a**
 30 **crime described in section 2 of this chapter against the victim by**
 31 **filing a verified petition that demonstrates:**

- 32 (1) that the petitioner is a family member or victim of a
- 33 serious crime; and
- 34 (2) that the respondent has been convicted of committing the
- 35 offense against the victim.

36 **(b) A petition may be filed under this chapter not earlier than**
 37 **six (6) months before the earliest possible release date of the**
 38 **serious offender, as determined by the department of correction.**

39 **(c) The petition shall include:**

- 40 (1) the name of the victim and every family member who
- 41 desires to be named in the order for protection;
- 42 (2) the name of the serious offender; and

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1 (3) a cause number or other identifying information that
2 relates to the crime of which the serious offender has been
3 convicted.

4 (d) A copy of the petition shall be served on:
5 (1) the serious offender; and
6 (2) every family member named in the petition who has not
7 joined the petition.

8 Sec. 5. (a) A court shall hold a hearing not more than fifteen (15)
9 days after a petition for an order for protection is filed under this
10 chapter. The respondent may file a response denying that:

11 (1) the respondent is a serious offender who has been
12 convicted of an offense described in section 2 of this chapter
13 against the victim; or

14 (2) a person named as a family member in the petition is a
15 family member.

16 (b) The court shall receive testimony and may make
17 independent inquiry. If the court finds by clear and convincing
18 evidence that the respondent is a serious offender who has been
19 convicted of an offense described in section 2 of this chapter
20 against the victim, the judge shall issue an order for protection
21 prohibiting the serious offender from having contact with the
22 victim or a family member.

23 (c) If the victim or a family member requests to be excluded
24 from coverage of the order for protection, the court shall exclude
25 that person from the order for protection.

26 Sec. 6. An order for protection issued under this chapter is
27 permanent. However, upon petition by the victim or a family
28 member, the court may modify the order for protection to:

29 (1) include an additional family member or victim; or
30 (2) remove a family member who does not wish to be included
31 in the order for protection.

32 Sec. 7. The court shall order a petitioner or the attorney for a
33 petitioner to deliver a copy of each:

34 (1) order for protection;
35 (2) modification of an order for protection; and
36 (3) termination of an order for protection, if applicable;

37 to a law enforcement agency that is requested by a petitioner and
38 approved by the court. The copies under subdivisions (1) through
39 (3) must be delivered by the close of the business day on which the
40 order is granted. Each law enforcement agency shall make
41 information on the existence and status of an order available to
42 appropriate law enforcement officers.

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1 **Sec. 8. An intentional violation of an order for protection issued**
2 **under this chapter is punishable as set forth under IC 35-46-1-15.1.**
3 **Sec. 9. (a) The division of state court administration shall**
4 **develop forms, instructions, and rules for the scheduling of**
5 **hearings and other procedures under this chapter. A party to an**
6 **action under this chapter must use the forms developed by the**
7 **division of state court administration.**
8 **(b) An order for protection issued under this chapter must be**
9 **issued on forms adopted and approved by the division of state**
10 **court administration and must be consistent with IC 34-26-5-3.**
11 **However, an order for protection issued under this section is not**
12 **rendered unenforceable solely because it is not issued on forms**
13 **adopted and approved by the division of state court administration.**
14 **(c) Information in an order for protection under this chapter**
15 **must be transmitted to the Indiana data and communication**
16 **system (IDACS) as required under IC 34-26-5-18.**
17 **Sec. 10. A filing fee may not be charged for a petition or a**
18 **responsive pleading filed under this chapter.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1049, 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:

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

"SECTION 1. IC 4-2-7-6, AS ADDED BY P.L. 222-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) This section applies if the inspector general finds evidence of misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the state or in an unlawful benefit to an individual in the conduct of state business.

(b) If the inspector general finds evidence described in subsection (a), the inspector general shall certify a report of the matter to the attorney general and provide the attorney general with any relevant documents, transcripts, or written statements. Not later than one hundred eighty (180) days after receipt of the report from the inspector general, the attorney general shall do one (1) of the following:

(1) File a civil action (including an action upon a state officer's official bond) to secure for the state the recovery of funds misappropriated, diverted, missing, or unlawfully gained. Upon request of the attorney general, the inspector general shall assist the attorney general in the investigation, preparation, and prosecution of the civil action.

(2) Inform the inspector general that the attorney general does not intend to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. If the attorney general elects not to file a civil action, the attorney general shall return to the inspector general all documents and files initially provided by the inspector general.

(3) Inform the inspector general that the attorney general is diligently investigating the matter and after further investigation may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. However, if more than three hundred sixty-five (365) days have passed since the inspector general certified the report to the attorney general, the attorney general loses the authority to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained and shall return to the inspector general all

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documents and files initially provided by the inspector general.

(c) If the inspector general has found evidence described in subsection (a) and reported to the attorney general under subsection (b) and:

(1) the attorney general has elected under subsection (b)(2) not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained; or

(2) under subsection (b)(3) more than three hundred sixty-five (365) days have passed since the inspector general certified the report to the attorney general under subsection (b) and the attorney general has not filed a civil action;

the inspector general may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained.

(d) If the inspector general has found evidence described in subsection (a), the inspector general may institute forfeiture proceedings under IC 34-24-2 in a court having jurisdiction in a county where property derived from or realized through the misappropriation, diversion, disappearance, or unlawful gain of state funds may be located, unless a prosecuting attorney has already instituted forfeiture proceedings against that property.

(e) The inspector general may directly institute civil proceedings against persons who have failed to pay civil penalties imposed by the ethics commission under IC 4-2-6-12.

SECTION 2. IC 4-6-3-2, AS AMENDED BY P.L.111-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The attorney general shall have charge of and direct the prosecution of all civil actions that are brought in the name of the state of Indiana or any state agency.

(b) In no instance under this section shall the state or a state agency be required to file a bond.

(c) This section does not affect the authority of prosecuting attorneys to prosecute civil actions.

(d) This section does not affect the authority of the inspector general to prosecute a civil action under IC 4-2-7-6 for the recovery of **either or both of the following:**

(1) Funds misappropriated, diverted, missing, or unlawfully gained.

(2) A civil penalty imposed by the state ethics commission under IC 4-2-6-12.

(e) The attorney general may bring an action to collect unpaid registration fees owed by a commercial dog broker or a commercial dog breeder under IC 15-21.

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SECTION 3. IC 5-11-5-1, AS AMENDED BY P.L.176-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Whenever an examination is made under this article, a report of the examination shall be made. The report must include a list of findings and shall be signed and verified by the examiner making the examination. A finding that is critical of an examined entity must be based upon one (1) of the following:

- (1) Failure of the entity to observe a uniform compliance guideline established under IC 5-11-1-24(a).
- (2) Failure of the entity to comply with a specific law.

A report that includes a finding that is critical of an examined entity must designate the uniform compliance guideline or the specific law upon which the finding is based. The reports shall immediately be filed with the state examiner, and, after inspection of the report, the state examiner shall immediately file one (1) copy with the officer or person examined, one (1) copy with the auditing department of the municipality examined and reported upon, and one (1) copy in an electronic format under IC 5-14-6 of the reports of examination of state agencies, instrumentalities of the state, and federal funds administered by the state with the legislative services agency, as staff to the general assembly. Upon filing, the report becomes a part of the public records of the office of the state examiner, of the office or the person examined, of the auditing department of the municipality examined and reported upon, and of the legislative services agency, as staff to the general assembly. A report is open to public inspection at all reasonable times after it is filed. If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general **and the inspector general**. The attorney general shall diligently institute and prosecute civil proceedings against the delinquent officer, or upon the officer's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(b) Before an examination report is signed, verified, and filed as required by subsection (a), the officer or the chief executive officer of the state office, municipality, or entity examined must have an opportunity to review the report and to file with the state examiner a written response to that report. If a written response is filed, it becomes a part of the examination report that is signed, verified, and filed as required by subsection (a).

(c) Except as required by subsections (b) and (d), it is unlawful for

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any deputy examiner, field examiner, or private examiner, before an examination report is made public as provided by this section, to make any disclosure of the result of any examination of any public account, except to the state examiner or if directed to give publicity to the examination report by the state examiner or by any court. If an examination report shows or discloses the commission of a crime by any person, it is the duty of the state examiner to transmit and present the examination report to the grand jury of the county in which the crime was committed at its first session after the making of the examination report and at any subsequent sessions that may be required. The state examiner shall furnish to the grand jury all evidence at the state examiner's command necessary in the investigation and prosecution of the crime.

(d) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that the following conditions are satisfied, the examiner shall report the determination to the state examiner:

(1) A substantial amount of public funds has been misappropriated or diverted.

(2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of the public funds was committed by the officer or an employee of the office.

(e) After receiving a preliminary report under subsection (d), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(f) In an action under subsection (e), the attorney general may attach the defendant's property under IC 34-25-2.

(g) A preliminary report under subsection (d) is confidential until the final report under subsection (a) is issued, unless the attorney general institutes an action under subsection (e) on the basis of the preliminary report.

SECTION 4. IC 5-11-6-1, AS AMENDED BY P.L.176-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, upon the petition of twenty-five (25) interested taxpayers showing that effective

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local relief has not and cannot be obtained after due effort, shall make the inquiries, tests, examinations, and investigations that may be necessary to determine whether:

- (1) any public contract has been regularly and lawfully executed and performed; or
- (2) any public work, building, or structure has been or is being performed, built, or constructed in accordance with the terms and provisions of the contract, and in compliance with the plans and specifications, if any.

Upon a written petition of twenty-five (25) taxpayers, the state examiner may also require all plans, specifications, and estimates to be submitted to the state examiner for corrections and approval before a contract is awarded.

(b) The state examiner, deputy examiner, and any field examiner, when engaged in making an inquiry, test, examination, or investigation under subsection (a), is entitled to examine and inspect any public records, documents, data, contracts, plans, and specifications contained or found in any public office or other place pertaining or relating to the public contract or public work, building, or structure. In addition, subpoenas may be issued to witnesses to appear before the examiner in person or to produce books and papers for inspection and examination. The state examiner, deputy, field, and private examiner may administer oaths and examine witnesses under oath either orally or by interrogatories on all matters under examination and investigation. Under order of the state examiner, the examination may be transcribed, with the reasonable expense paid by the municipality in the same manner as the compensation of the field examiner is paid.

(c) The state examiner, the deputy examiner, and a field examiner may enforce attendance and answers to questions and interrogatories, as provided by law, with respect to examinations and investigations made by the state examiner, deputy examiner, field examiner, or private examiner of public offices.

(d) The state examiner, deputy examiner, any field examiner, and any private examiner, when making an examination or investigation under subsection (a), shall examine, inspect, and test the public works, buildings, or structures in the manner that the examiner sees fit to determine whether it is being performed, built, or constructed according to the contract and plans and specifications.

(e) The state examiner shall file a report covering any examination or investigation that discloses:

- (1) fraud, collusion, misconduct, or negligence in the letting or the execution of any public contract or in the performance of any

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of the terms and conditions of any public contract; or
 (2) any failure to comply with the terms or conditions of any public contract in the construction of any public work, building, or structure or to perform, build, or construct it according to the plans and specifications, if any, provided in the contract; that causes loss, injury, waste, or damage to the state, the municipality, taxing or assessment district, other public entity, or to its citizens, if it is enforceable by assessment or taxation.

(f) The report must meet the following requirements:

(1) The report must be made, signed, and verified in quadruplicate by the examiner making the examination.

(2) The report shall be filed promptly with the state examiner.

After inspection of the report, the state examiner shall file a copy of the report promptly with the attorney general **and the inspector general**.

(g) The attorney general shall diligently institute and prosecute civil proceedings against any or all officers, individuals, and persons in the form and manner that the attorney general determines will secure a proper recovery to the state, municipality, taxing or assessment district, or other public entity injured, defrauded, or damaged by the matters in the report. These prosecutions may be made by the attorney general and the recovery may be had, either upon public official bonds, contractors' bonds, surety or other bonds, or upon individual liability, either upon contract or in tort, as the attorney general determines is wise. No action or recovery in any form or manner, or against any party or parties, precludes further or additional action or recovery in any other form or manner or against another party, either concurrently with or later found necessary, to secure complete recovery and restitution with respect to all matters exhibited, set out, or described in the report. The suits may be brought in the name of the state on the relation of the attorney general for the benefit of the state, or the municipality, taxing or assessment district, or other public entity that may be proper. The actions brought against any defendants may be joined, as to parties, form, and causes of action, in the manner that the attorney general decides.

(h) Any report described in this section or a copy duly certified by the state examiner shall be taken and received in any and all courts of this state as prima facie evidence of the facts stated and contained in the reports.

(i) If an examination, investigation, or test is made without a petition being first filed and the examination, investigation, or test shows that the terms of the contract are being complied with, then the expense of the examination, investigation, or test shall be paid by the state upon

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vouchers approved by the state examiner from funds available for contractual service of the state board of accounts. If such a report shows misfeasance, malfeasance, or nonfeasance in public office or shows that the terms of the plans and specifications under which a contract has been awarded are not being complied with, it is unlawful to make the report public until the report has been certified to the attorney general.

(j) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that all of the following conditions are satisfied, the examiner shall report the determination to the state examiner:

- (1) A substantial amount of public funds has been misappropriated or diverted.
- (2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of public funds was committed by the officer or an employee of the office.

(k) After receiving a preliminary report under subsection (j), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(l) In an action under subsection (k), the attorney general may attach the defendant's property under IC 34-25-2.

(m) A preliminary report under subsection (j) is confidential until the final report under subsection (e) is issued, unless the attorney general institutes an action under subsection (k) on the basis of the preliminary report.

SECTION 5. IC 5-11-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. If any examination or investigation made by the state examiner personally or through a deputy examiner, field examiner, or private examiner under ~~of~~ this chapter or ~~of~~ **under** any other statute discloses:

- (1) malfeasance, misfeasance, or nonfeasance in office or of any officer or employee;
- (2) that any public money has been:
 - (A) unlawfully expended, either by having been expended for a purpose not authorized by law in an amount exceeding that authorized by law, or by having been paid to a person not

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- lawfully entitled to receive it; or
- (B) obtained by fraud or in any unlawful manner; or
- (3) that any money has been wrongfully withheld from the public treasury;

a duly verified copy of the report shall be submitted by the state examiner to the attorney general, who shall institute and prosecute civil proceedings as provided in section 1 of this chapter, **and to the inspector general.**"

Page 4, after line 39, begin a new paragraph and insert:

"SECTION 10. IC 33-35-2-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 6.5. A city court in a city having a population of more than ten thousand five hundred (10,500) but less than eleven thousand (11,000) has concurrent jurisdiction with the circuit court in civil cases in which the amount in controversy does not exceed three thousand dollars (\$3,000).**"

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1049 as introduced.)

FOLEY, Chair

Committee Vote: yeas 7, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1049, 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 11, delete lines 40 through 42.

Delete page 12.

and when so amended that said bill do pass.

(Reference is to HB 1049 as printed January 25, 2012.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.



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Report of the President
Pro Tempore

Madam President: I move that Engrossed House Bill 1049, which is eligible for third reading, be returned to second reading for purposes of amendment.

BRAY

SENATE MOTION

Madam President: I move that Engrossed House Bill 1049 be amended to read as follows:

Page 11, after line 39, begin a new paragraph and insert:

"SECTION 11. IC 34-26-5-3, AS AMENDED BY P.L.130-2009, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The division of state court administration shall:

- (1) develop and adopt:
 - (A) a petition for an order for protection;
 - (B) an order for protection, including:
 - (i) orders issued under this chapter;
 - (ii) ex parte orders;
 - (iii) no contact orders under IC 31 and IC 35;
 - (iv) forms relating to workplace violence restraining orders under IC 34-26-6; **and**
 - (v) forms relating to a child protective order under IC 31-34-2.3; **and**
 - (vi) forms relating to victims of serious crimes protection orders under IC 34-26-7;**
 - (C) a confidential form;
 - (D) a notice of modification or extension for an order for protection, a no contact order, a workplace violence restraining order, ~~or~~ a child protective order, **or a victims of serious crimes protection orders;**
 - (E) a notice of termination for an order for protection, a no contact order, a workplace violence restraining order, ~~or~~ a child protective order, **or a victims of serious crimes protection orders;** and
 - (F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

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(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

- (1) either party; or
- (2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, a workplace violence restraining order, ~~or~~ a child protective order, **or a victims of serious crimes protection orders:**

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

- (A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;**
- (B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR**
- (C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.**

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

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- (1) the forms adopted under subsection (a);
- (2) all other forms required to petition for an order for protection, including forms:
 - (A) necessary for service; and
 - (B) required under IC 31-21 (or IC 31-17-3 before its repeal); and
- (3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

- (1) verified or under oath under Trial Rule 11; and
- (2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

(g) After receiving a petition for an order for protection, the clerk of the circuit court shall immediately enter the case in the Indiana protective order registry established by IC 5-2-9-5.5.

SECTION 12. IC 34-26-5-18, AS AMENDED BY P.L.1-2010, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:

- (1) A no contact order issued under IC 31-32-13 in a juvenile case.
- (2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.
- (3) A no contact order issued under IC 31-34-25 in a CHINS case.
- (4) A no contact order issued under IC 31-37-19 in a delinquency case.
- (5) A no contact order issued under IC 31-37-25 in a delinquency case.
- (6) A no contact order issued under IC 33-39-1-8 in a criminal case.

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- (7) An order for protection issued under this chapter.
- (8) A workplace violence restraining order issued under IC 34-26-6.
- (9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.
- (10) A no contact order issued under IC 35-38-2-2.3 in a criminal case.
- (11) A child protective order issued under IC 31-34-2.3.
- (12) A foreign protective order registered under section 17 of this chapter.
- (13) A victims of serious crimes protection order issued under IC 34-26-7.**

SECTION 13. IC 34-26-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 7. Victims of Serious Crimes Protection Order

Sec. 1. As used in this chapter, "family member" means the spouse, child, sibling, parent, grandparent, or grandchild of the victim of a serious crime. The term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Sec. 2. As used in this chapter, "serious offender" means a person who has been convicted of one (1) or more of the following crimes:

- (1) Murder (IC 35-42-1-1).**
- (2) Rape (IC 35-42-4-1).**
- (3) Criminal deviate conduct (IC 35-42-4-2).**
- (4) Child molesting (IC 35-42-4-3).**
- (5) An attempt or conspiracy to commit a crime described in this section.**
- (6) A crime committed in another jurisdiction that is substantially similar to a crime described in this section.**

Sec. 3. As used in this chapter, "victim" or "victim of a serious crime" means a person who is the victim of a crime described in section 2 of this chapter.

Sec. 4. (a) A victim or family member may obtain a permanent order for protection against the serious offender who committed a crime described in section 2 of this chapter against the victim by filing a verified petition that demonstrates:

- (1) that the petitioner is a family member or victim of a serious crime; and**
- (2) that the respondent has been convicted of committing the offense against the victim.**



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(b) A petition may be filed under this chapter not earlier than six (6) months before the earliest possible release date of the serious offender, as determined by the department of correction.

(c) The petition shall include:

- (1) the name of the victim and every family member who desires to be named in the order for protection;
- (2) the name of the serious offender; and
- (3) a cause number or other identifying information that relates to the crime of which the serious offender has been convicted.

(d) A copy of the petition shall be served on:

- (1) the serious offender; and
- (2) every family member named in the petition who has not joined the petition.

Sec. 5. (a) A court shall hold a hearing not more than fifteen (15) days after a petition for an order for protection is filed under this chapter. The respondent may file a response denying that:

- (1) the respondent is a serious offender who has been convicted of an offense described in section 2 of this chapter against the victim; or
- (2) a person named as a family member in the petition is a family member.

(b) The court shall receive testimony and may make independent inquiry. If the court finds by clear and convincing evidence that the respondent is a serious offender who has been convicted of an offense described in section 2 of this chapter against the victim, the judge shall issue an order for protection prohibiting the serious offender from having contact with the victim or a family member.

(c) If the victim or a family member requests to be excluded from coverage of the order for protection, the court shall exclude that person from the order for protection.

Sec. 6. An order for protection issued under this chapter is permanent. However, upon petition by the victim or a family member, the court may modify the order for protection to:

- (1) include an additional family member or victim; or
- (2) remove a family member who does not wish to be included in the order for protection.

Sec. 7. The court shall order a petitioner or the attorney for a petitioner to deliver a copy of each:

- (1) order for protection;
- (2) modification of an order for protection; and



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(3) termination of an order for protection, if applicable; to a law enforcement agency that is requested by a petitioner and approved by the court. The copies under subdivisions (1) through (3) must be delivered by the close of the business day on which the order is granted. Each law enforcement agency shall make information on the existence and status of an order available to appropriate law enforcement officers.

Sec. 8. An intentional violation of an order for protection issued under this chapter is punishable as set forth under IC 35-46-1-15.1.

Sec. 9. (a) The division of state court administration shall develop forms, instructions, and rules for the scheduling of hearings and other procedures under this chapter. A party to an action under this chapter must use the forms developed by the division of state court administration.

(b) An order for protection issued under this chapter must be issued on forms adopted and approved by the division of state court administration and must be consistent with IC 34-26-5-3. However, an order for protection issued under this section is not rendered unenforceable solely because it is not issued on forms adopted and approved by the division of state court administration.

(c) Information in an order for protection under this chapter must be transmitted to the Indiana data and communication system (IDACS) as required under IC 34-26-5-18.

Sec. 10. A filing fee may not be charged for a petition or a responsive pleading filed under this chapter."

(Reference is to EHB 1049 as printed February 17, 2012.)

STEELE

SENATE MOTION

Madam President: I move that Engrossed House Bill 1049 be amended to read as follows:

Page 11, after line 39, begin a new paragraph and insert:

"SECTION 11. IC 33-34-8-1, AS AMENDED BY P.L.176-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

- (1) A township docket fee of five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

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- (2) The bailiff's service of process by registered or certified mail fee of thirteen dollars (\$13) for each service.
- (3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars (\$13) for each service.
- (4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.
- (5) A redocketing fee, if any, of five dollars (\$5).
- (6) A document storage fee under IC 33-37-5-20.
- (7) An automated record keeping fee under IC 33-37-5-21.
- (8) A late fee, if any, under IC 33-37-5-22.
- (9) A public defense administration fee under IC 33-37-5-21.2.
- (10) A judicial insurance adjustment fee under IC 33-37-5-25.
- (11) A judicial salaries fee under IC 33-37-5-26.
- (12) A court administration fee under IC 33-37-5-27.
- (13) Before July 1, 2020, a pro bono legal services fee under IC 33-37-5-31.**

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 12. IC 33-34-8-3, AS AMENDED BY P.L.182-2009(ss), SECTION 391, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ Township of Marion County Small Claims Court (with the name of the township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

- (1) semiannually distribute to the auditor of state:
 - (A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in the homeowner protection unit account established by IC 4-6-12-9 and the state user fee fund established under IC 33-37-9;
 - (B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

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(C) sixty percent (60%) of all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2; **and**

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; **and**

(F) one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2020, by the court under IC 33-37-5-31; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited monthly in the township general fund of the township in which the court is located. The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

(c) The court semiannually shall pay to the township trustee of the township in which the court is located the remaining forty percent (40%) of the court administration fees described under subsection (b)(1)(C) to fund the operations of the small claims court in the trustee's township.

SECTION 13. IC 33-37-4-4, AS AMENDED BY P.L.105-2009, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

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

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- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).
- (5) A public defense administration fee (IC 33-37-5-21.2).
- (6) A judicial insurance adjustment fee (IC 33-37-5-25).
- (7) A judicial salaries fee (IC 33-37-5-26).
- (8) A court administration fee (IC 33-37-5-27).
- (9) A service fee (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).
- (10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).
- (11) For a mortgage foreclosure action filed after June 30, 2009, and before January 1, 2013, a mortgage foreclosure counseling and education fee (IC 33-37-5-30 (before its expiration on January 1, 2013)).
- (12) Before July 1, 2020, a pro bono legal services fee (IC 33-37-5-31).**

SECTION 14. IC 33-37-4-6, AS AMENDED BY P.L.174-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) For each small claims action, the clerk shall collect the following fees:

- (1) From the party filing the action:
 - (A) a small claims costs fee of thirty-five dollars (\$35);
 - (B) a small claims service fee of ten dollars (\$10) for each named defendant that is not a garnishee defendant; and
 - (C) if the party has named more than three (3) garnishees or garnishee defendants, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant in excess of three (3).
- (2) From any party adding a defendant that is not a garnishee defendant, a small claims service fee of ten dollars (\$10) for each defendant that is not a garnishee defendant added in the action.
- (3) From any party adding a garnishee or garnishee defendant, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant added to the action. However, a clerk may not collect a small claims garnishee service fee for the first three (3) garnishees named in the action.

However, a clerk may not collect a small claims costs fee, small claims service fee, or small claims garnishee service fee for a small claims action filed by or on behalf of the attorney general.



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(b) In addition to a small claims costs fee, small claims service fee, and small claims garnishee service 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 document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) A public defense administration fee (IC 33-37-5-21.2).
- (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- (6) A judicial salaries fee (IC 33-37-5-26).
- (7) A court administration fee (IC 33-37-5-27).
- (8) Before July 1, 2020, a pro bono legal services fee (IC 33-37-5-31).**

SECTION 15. IC 33-37-4-7, AS AMENDED BY P.L.176-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

- (1) IC 6-4.1-5 (determination of inheritance tax).
- (2) IC 29 (probate).
- (3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action 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 document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) A public defense administration fee (IC 33-37-5-21.2).
- (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- (6) A judicial salaries fee (IC 33-37-5-26).
- (7) A court administration fee (IC 33-37-5-27).
- (8) Before July 1, 2020, a pro bono legal services fee (IC 33-37-5-31).**

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.



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(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 16. IC 33-37-5-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 31. In each:**

(1) civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a);

(2) small claims action in which:

(A) a party is required to pay a township docket fee under IC 33-34-8-1(a)(1); or

(B) the clerk is required to collect a small claims costs fee under IC 33-37-4-6; or

(3) probate action in which the clerk is required to collect a probate costs fee under IC 33-37-4-7(a);

the clerk shall, before July 1, 2020, collect a pro bono legal services fee of one dollar (\$1).

SECTION 17. IC 33-37-7-2, AS AMENDED BY P.L.229-2011, SECTION 260, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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).

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(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) The following:

(A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(B) For a county not operating under the state's automated judicial system, eighty percent (80%) of the automated record keeping fee (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 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%)

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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 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.

(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.

(h) 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.

(i) 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.



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(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.

(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.

(k) 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.

(l) 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.

(m) 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 33-37-5-30 (before its expiration on January 1, 2013).

(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.

(n) This subsection applies to a county that is not operating under the state's automated judicial system. The clerk of a circuit court shall distribute monthly to the county auditor twenty percent (20%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a) for deposit in the clerk's record perpetuation fund.

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(o) 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, 2020, 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.

SECTION 18. IC 33-37-7-8, AS AMENDED BY P.L.182-2009(ss), SECTION 396, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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:

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- (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 (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:

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- (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, 2020, 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**

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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."

(Reference is to EHB 1049 as printed February 17, 2012.)

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