

## SENATE BILL No. 523

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-13-6-1.1; IC 5-8-6; IC 33-28-1-2; IC 33-29; IC 33-31-1-9; IC 33-34; IC 33-34.1; IC 33-37; IC 33-41-1-7.

**Synopsis:** Marion County small claims. Replaces the existing Marion county township small claims court system with a county-wide small claims court system having nine divisions. Provides that the judges of the small claims court shall be elected in a county-wide election, and that a division of the Marion county small claims court shall be located in each township.

**Effective:** Upon passage.

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## Young R Michael

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January 14, 2015, read first time and referred to Committee on Judiciary.

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First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 523

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 3-13-6-1.1 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 1.1. (a) As used in this section, "judge"**
- 4 **refers to a judge of the Marion County small claims court.**
- 5 **(b) A vacancy that occurs because of the death of a judge may**
- 6 **be certified to the governor under IC 5-8-6.**
- 7 **(c) A vacancy that occurs, other than by resignation or death of**
- 8 **a judge, shall be certified to the governor by the executive**
- 9 **committee, township board, or clerk of the circuit court.**
- 10 **(d) A vacancy in the office of judge shall be filled by the**
- 11 **governor as provided by Article 5, Section 18 of the Constitution**
- 12 **of the State of Indiana. However, the governor may not fill a**
- 13 **vacancy that occurs because of the death of a judge until the**
- 14 **governor receives notice of the death under IC 5-8-6.**
- 15 **(e) The person who is appointed holds the office until:**
- 16 **(1) the end of the unexpired term; or**



1           **(2) a successor is elected at the next general election for the**  
 2           **office, and qualified;**  
 3           **whichever occurs first.**

4           **(f) Except as provided in this subsection, the election to fill the**  
 5           **office of judge shall occur at the next general election following the**  
 6           **date any vacancy occurred. However, if a vacancy occurs after**  
 7           **noon seventy-four (74) days before a general election, the election**  
 8           **to fill the office shall be conducted at the second general election**  
 9           **following the date any vacancy occurred.**

10           **(g) The person elected at the general election following an**  
 11           **appointment to fill the vacancy, upon being qualified, holds office**  
 12           **for the four (4) year term prescribed by IC 33-34.1-2 and until a**  
 13           **successor is elected and qualified. The person who is appointed**  
 14           **holds office for the remainder of the unexpired term.**

15           SECTION 2. IC 5-8-6-3, AS ADDED BY P.L. 119-2005, SECTION  
 16           29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON  
 17           PASSAGE]: Sec. 3. (a) A person who knows of the death of an  
 18           officeholder may certify the death to the following:

19           (1) The governor, in the case of the death of any of the following:

20           (A) An individual who holds a state office (as defined in  
 21           IC 3-5-2-48).

22           (B) An individual who is a judge of:

23           (i) a circuit, superior, probate, county, or city court; **or**

24           (ii) **the Marion County small claims court.**

25           (2) The secretary of state, in the case of the death of an individual  
 26           who holds a legislative office (as defined in IC-3-5-2-28).

27           (3) The circuit court clerk of the county in which the officeholder  
 28           resided, in the case of the death of an officeholder of a county,  
 29           city, town, township, or school corporation not covered under  
 30           subdivision (1).

31           (b) A person who certifies the death of an officeholder shall:

32           (1) state the information that causes the person to believe the  
 33           officeholder has died; and

34           (2) certify, under the penalties for perjury, that to the best of the  
 35           person's knowledge and belief, the information stated is true.

36           SECTION 3. IC 5-8-6-4, AS ADDED BY P.L. 119-2005, SECTION  
 37           29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON  
 38           PASSAGE]: Sec. 4. When the governor:

39           (1) obtains information concerning the death of an individual  
 40           who:

41           (A) holds a state office (as defined in IC 3-5-2-48); or

42           (B) is a judge of:



- 1                   (i) a circuit, superior, probate, county, or city court; or  
 2                   (ii) **the Marion County small claims court**; and  
 3           (2) is reasonably satisfied that the information described in  
 4           subdivision (1) is true;  
 5           the governor shall fill the vacancy as provided by law.  
 6           SECTION 4. IC 33-28-1-2, AS AMENDED BY P.L.201-2011,  
 7           SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8           UPON PASSAGE]: Sec. 2. (a) All circuit courts have:  
 9           (1) original and concurrent jurisdiction in all civil cases and in all  
 10           criminal cases;  
 11           (2) de novo appellate jurisdiction of appeals from city and town  
 12           courts; and  
 13           (3) in Marion County, de novo appellate jurisdiction of appeals  
 14           from ~~township~~ **the Marion County small claims courts court**  
 15           established under ~~IC 33-34~~. **IC 33-34.1.**  
 16           (b) The circuit court also has the appellate jurisdiction that may be  
 17           conferred by law upon it.  
 18           SECTION 5. IC 33-29-1-1.5, AS ADDED BY P.L.201-2011,  
 19           SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20           UPON PASSAGE]: Sec. 1.5. All standard superior courts have:  
 21           (1) original and concurrent jurisdiction in all civil cases and in all  
 22           criminal cases;  
 23           (2) de novo appellate jurisdiction of appeals from city and town  
 24           courts; and  
 25           (3) in Marion County, de novo appellate jurisdiction of appeals  
 26           from ~~township~~ **the Marion County small claims courts court**  
 27           established under ~~IC 33-34~~. **IC 33-34.1.**  
 28           SECTION 6. IC 33-29-1.5-2, AS ADDED BY P.L.201-2011,  
 29           SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30           UPON PASSAGE]: Sec. 2. All superior courts have:  
 31           (1) original and concurrent jurisdiction in all civil cases and in all  
 32           criminal cases;  
 33           (2) de novo appellate jurisdiction of appeals from city and town  
 34           courts; and  
 35           (3) in Marion County, de novo appellate jurisdiction of appeals  
 36           from ~~township~~ **the Marion County small claims courts court**  
 37           established under ~~IC 33-34~~. **IC 33-34.1.**  
 38           SECTION 7. IC 33-31-1-9, AS AMENDED BY P.L.201-2011,  
 39           SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40           UPON PASSAGE]: Sec. 9. All probate courts have:  
 41           (1) original and concurrent jurisdiction in all civil cases and in all  
 42           criminal cases;



1 (2) de novo appellate jurisdiction of appeals from city and town  
2 courts; and  
3 (3) in Marion County, de novo appellate jurisdiction of appeals  
4 from ~~township~~ **the Marion County** small claims ~~courts~~ **court**  
5 established under ~~IC 33-34~~ **IC 33-34.1**.

6 SECTION 8. IC 33-34 IS REPEALED [EFFECTIVE UPON  
7 PASSAGE]. (Marion County Small Claims Courts).

8 SECTION 9. IC 33-34.1 IS ADDED TO THE INDIANA CODE AS  
9 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON  
10 PASSAGE]:

11 **ARTICLE 34.1. MARION COUNTY SMALL CLAIMS**  
12 **COURTS**

13 **Chapter 1. Establishment and General Provisions**

14 **Sec. 1. The following definitions apply throughout this article:**

15 (1) "Executive committee" means the small claims executive  
16 committee described in IC 33-34.1-10.

17 (2) "Judge" means the judge of a small claims court  
18 established under this chapter unless otherwise indicated.

19 **Sec. 2. (a) There is established a small claims court with nine (9)**  
20 **divisions in each county containing a consolidated city.**

21 **(b) The name of each court shall be the "Marion County Small**  
22 **Claims Court, Division \_\_\_\_\_" (insert the number in the blank).**

23 **(c) Each division of the small claims court shall be located in a**  
24 **separate township within the county.**

25 **Sec. 3. The small claims court is not a court of record.**

26 **Sec. 4. The small claims court shall meet in continuous session.**

27 **Sec. 5. A division of the small claims court must be a full-time**  
28 **division.**

29 **Sec. 6. (a) One (1) small claims court division shall be located in**  
30 **every township in Marion County. The small claims court divisions**  
31 **shall be located as follows:**

32 **(1) Marion County Small Claims Court, Division 1 shall be**  
33 **located in Pike township.**

34 **(2) Marion County Small Claims Court, Division 2 shall be**  
35 **located in Washington township.**

36 **(3) Marion County Small Claims Court, Division 3 shall be**  
37 **located in Lawrence township.**

38 **(4) Marion County Small Claims Court, Division 4 shall be**  
39 **located in Wayne township.**

40 **(5) Marion County Small Claims Court, Division 5 shall be**  
41 **located in Center township.**

42 **(6) Marion County Small Claims Court, Division 6 shall be**



1 located in Warren township.

2 (7) Marion County Small Claims Court, Division 7 shall be  
3 located in Decatur township.

4 (8) Marion County Small Claims Court, Division 8 shall be  
5 located in Perry township.

6 (9) Marion County Small Claims Court, Division 9 shall be  
7 located in Franklin township.

8 (b) Each township shall provide a courtroom, offices, and  
9 funding for the small claims court division located in that township  
10 in accordance with this article.

11 (c) A township must conduct a hearing before changing the  
12 location of the small claims court division's courtroom and offices.

13 Sec. 7. The township trustee shall give ten (10) days notice of all  
14 hearings held under section 6 of this chapter in one (1) or more  
15 newspapers of general circulation in the county.

16 Sec. 8. Not more than two (2) weeks after a hearing is conducted  
17 under section 6 of this chapter, the township board shall, after  
18 considering the evidence, opinions, advice, and suggestions  
19 presented at the hearing, enter an order concerning the location of  
20 the small claims court division's courtroom and offices.

21 Chapter 2. Judges

22 Sec. 1. (a) Each judge of the court shall be elected for a term of  
23 four (4) years that begins January 1 after the year of the judge's  
24 election and continues through December 31 in the fourth year.  
25 The judge shall hold office for the four (4) year term or until the  
26 judge's successor is elected and qualified. A candidate for judge  
27 shall run at large for the office of judge of the small claims court  
28 and not as a candidate for judge of a particular division of the  
29 court.

30 (b) At the primary election, a political party may nominate not  
31 more than five (5) candidates for judge of the court. The  
32 candidates shall be voted on at the general election. Other  
33 candidates may qualify under IC 3-8-6 to be voted on at the  
34 general election.

35 (c) The names of the party candidates nominated and properly  
36 certified to the Marion County election board, along with the  
37 names of other candidates who have qualified, shall be placed on  
38 the ballot at the general election in the form prescribed by IC 3-11.  
39 Persons eligible to vote at the general election may vote for nine (9)  
40 candidates for judge of the court.

41 (d) The nine (9) candidates for judge of the court receiving the  
42 highest number of votes shall be elected to the vacancies. The



1 names of the candidates elected as judges of the court shall be  
 2 certified to the county election board as provided by law.

3 **Sec. 2.** A candidate for the office of judge of a small claims court  
 4 must:

- 5 (1) be a United States citizen upon taking office;  
 6 (2) have resided in the county for at least one (1) year upon  
 7 taking office;  
 8 (3) be of high moral character and reputation; and  
 9 (4) be admitted to the practice of law in Indiana upon filing a  
 10 declaration of candidacy or petition of nomination or upon  
 11 the filing of a certificate of candidate selection under  
 12 IC 3-13-1-15 or IC 3-13-2-8.

13 **Sec. 3.** The term of office of a judge is four (4) years, beginning  
 14 January 1 after election and continuing until a successor is:

- 15 (1) elected; and  
 16 (2) qualified.

17 **Sec. 4. (a)** The nine (9) judges of the small claims court shall be  
 18 assigned to a particular division of the small claims court as  
 19 follows:

20 (1) Before the January 1 following the election, the  
 21 judges-elect shall meet to select which judge shall serve in  
 22 which division. The affirmative votes of seven (7) judges-elect  
 23 are required to assign a judge to a particular division under  
 24 this subdivision.

25 (2) If, before the January 1 following the election, one (1) or  
 26 more judges-elect do not receive the affirmative votes of seven  
 27 (7) judges-elect for assignment to a particular division, the  
 28 executive committee shall assign to a particular division those  
 29 judges who did not receive the affirmative votes of seven (7)  
 30 judges-elect for assignment to a particular division.

31 (b) Except as provided in IC 33-34.1-10, the assignment of a  
 32 judge to a particular division of the small claims court runs until  
 33 the judge's term expires.

34 (c) The executive committee shall adopt rules to carry out this  
 35 section.

36 **Sec. 5. (a)** The executive committee may establish a regular  
 37 hourly schedule for the performance of duties by Marion County  
 38 small claims courts and each judge shall maintain that schedule.

39 (b) If the executive committee does not establish a regular  
 40 hourly schedule, the judge shall perform the judge's duties at  
 41 regular, reasonable hours.

42 (c) Regardless of whether a regular hourly schedule has been



1 established as set forth in subsection (a), a judge shall hold sessions  
2 in addition to the judge's regular schedule whenever the business  
3 of the judge's court requires.

4 Sec. 6. (a) The annual salary of a judge is equal to seventy  
5 percent (70%) of the minimum salary paid by the state to the  
6 Marion County circuit court judge.

7 (b) The salary of the judge shall be paid by the township trustee  
8 as described in section 7 of this chapter.

9 (c) The salary of a judge may not be reduced during the judge's  
10 term of office.

11 Sec. 7. (a) The annual salary of a judge shall be paid every two  
12 (2) weeks by the township trustee of the township in which the  
13 small claims division is located.

14 (b) The judge may not receive remuneration other than a salary  
15 set under section 6 of this chapter for the performance of the  
16 judge's official duties.

17 Sec. 8. All judges serve as full time judges. A judge:

18 (1) shall devote full time to judicial duties; and

19 (2) may not engage in the practice of law.

20 Sec. 9. The:

21 (1) judge of a small claims court; and

22 (2) employees of the court;

23 may be eligible to participate in the public employees' retirement  
24 fund as provided in IC 5-10.3, but a judge is not eligible to  
25 participate as a member in the judges' retirement fund under  
26 IC 33-38.

27 Sec. 10. (a) A vacation of one (1) month per year shall be  
28 provided for each judge.

29 (b) The executive committee may authorize the appointment of  
30 a judge pro tempore to handle the judicial business of the  
31 vacationing judge, if the executive committee considers it  
32 necessary.

33 Sec. 11. (a) A judge is subject to disciplinary action for the  
34 grounds and in the manner set forth in IC 33-38-14.

35 (b) The commission on judicial qualifications for judges of the  
36 superior and probate courts is the commission on judicial  
37 qualifications for the judges of the small claims courts.

38 Sec. 12. Before assuming the duties of a judge, a judge must take  
39 an oath to:

40 (1) faithfully perform the duties of the judge's office; and

41 (2) support and defend to the best of the judge's ability the  
42 constitution and laws of Indiana and the United States.





1           **Sec. 13. A judge shall:**

2           (1) furnish a bond in a sum required by the executive  
3           committee to provide for the:

4           (A) faithful discharge of the duties of the office; and

5           (B) payment or delivery to the proper persons of whatever  
6           money or other property may come into the judge's hands  
7           when acting as judge; and

8           (2) file the bond with the county recorder.

9           The bond must also extend to cover a person that is appointed to  
10          act as judge under IC 33-34.1-5-4.

11          **Sec. 14. (a)** A judge shall procure a seal that will stamp upon  
12          paper a distinct impression of words and letters. The seal must  
13          contain the words "Marion County Small Claims Court, Division  
14          \_\_\_\_\_ " (insert the number of the division in the blank).

15          (b) Deeds, mortgages, powers of attorney, state warrants, and  
16          all other instruments of writing pertaining to the judge's official  
17          duty, attested by the seal and signature of the judge, are  
18          presumptive evidence of the official character of the court or judge  
19          in all courts in Indiana without further authentication.

20          **Sec. 15. (a)** The resignation of a judge shall be delivered to the  
21          clerk of the circuit court. The clerk shall advise the executive  
22          committee and the appropriate township board.

23          (b) A vacancy occurring in a judgeship must be filled under  
24          IC 3-13-6.

25          **Chapter 3. Jurisdiction, Rules, and Procedure**

26          **Sec. 1. (a)** Although a case may be preliminarily filed in any  
27          division of the Marion County small claims court, except as  
28          provided in subsections (b) and (c), the clerk of the circuit court  
29          shall randomly assign a case within the jurisdiction of the small  
30          claims court to one (1) of the nine (9) divisions of the small claims  
31          court.

32          (b) If a plaintiff files more than one (1) but less than eleven (11)  
33          cases at the same time, the clerk of the circuit court shall randomly  
34          assign all of these cases to one (1) of the nine (9) divisions of the  
35          small claims court.

36          (c) If a plaintiff files eleven (11) or more cases at the same time,  
37          each multiple of ten (10) cases shall be randomly assigned to one  
38          (1) of the nine (9) divisions of the small claims court. However, if  
39          less than ten (10) cases remain unassigned after assigning all other  
40          cases in multiples of ten (10), this group of cases shall likewise be  
41          randomly assigned to one (1) of the nine (9) divisions of the small  
42          claims court.



1           (d) The executive committee shall adopt rules to implement this  
2 section.

3           **Sec. 2. The court has original and concurrent jurisdiction with**  
4 **the circuit and superior courts in all civil cases founded on contract**  
5 **or tort in which the debt or damage claimed does not exceed:**

6           (1) for a cause of action that accrues after June 30, 2015, and  
7 before July 1, 2021, ten thousand dollars (\$10,000);

8           (2) for a cause of action that accrues after June 30, 2021, and  
9 before July 1, 2028, twelve thousand dollars (\$12,000); and

10           (3) for a cause of action that accrues after June 30, 2028,  
11 fifteen thousand dollars (\$15,000);

12 not including interest or attorney's fees.

13           **Sec. 3. (a) The court has original and concurrent jurisdiction**  
14 **with the circuit and superior courts in possessory actions between**  
15 **landlord and tenant in which the past due rent at the time of filing**  
16 **does not exceed:**

17           (1) for a cause of action that accrues after June 30, 2015, and  
18 before July 1, 2021, ten thousand dollars (\$10,000);

19           (2) for a cause of action that accrues after June 30, 2021, and  
20 before July 1, 2028, twelve thousand dollars (\$12,000); and

21           (3) for a cause of action that accrues after June 30, 2028,  
22 fifteen thousand dollars (\$15,000);

23 not including interest or attorney's fees.

24           **(b) The court has original and concurrent jurisdiction with the**  
25 **circuit and superior courts in actions for the possession of property**  
26 **where the value of the property sought to be recovered does not**  
27 **exceed:**

28           (1) for a cause of action that accrues after June 30, 2015, and  
29 before July 1, 2021, ten thousand dollars (\$10,000);

30           (2) for a cause of action that accrues after June 30, 2021, and  
31 before July 1, 2028, twelve thousand dollars (\$12,000); and

32           (3) for a cause of action that accrues after June 30, 2028,  
33 fifteen thousand dollars (\$15,000);

34 not including interest or attorney's fees.

35           **Sec. 4. The court has original and concurrent jurisdiction with**  
36 **the circuit and superior court in emergency possessory actions**  
37 **between a landlord and tenant under IC 32-31-6.**

38           **Sec. 5. The small claims court has no jurisdiction:**

39           (1) in actions seeking injunctive relief or involving partition of  
40 real estate;

41           (2) in actions to declare or enforce any lien except as provided  
42 in section 14 of this chapter;



- 1           (3) in actions in which the appointment of a receiver is asked;  
 2           or  
 3           (4) in suits for dissolution or annulment of marriage.

4           **Sec. 6. (a) The executive committee, assisted by the judges of the**  
 5 **small claims court, shall make and adopt uniform rules for**  
 6 **conducting the business of the small claims court:**

- 7           (1) according to a simplified procedure; and  
 8           (2) in the spirit of sections 7 and 9 of this chapter.

9           **(b) The executive committee, assisted by the clerk of the circuit**  
 10 **court and the judges of the small claims court, shall make and**  
 11 **adopt uniform rules for:**

- 12           (1) the random assignment of cases filed in the small claims  
 13 court, as described in section 1 of this chapter; and  
 14           (2) after a case has been randomly assigned to a division of the  
 15 small claims court, the transfer of court fees from the division  
 16 in which the case was preliminarily filed to the township  
 17 trustee of the township in which the division of the small  
 18 claims court to which the case was randomly assigned is  
 19 located.

20           **Sec. 7. A simplified procedure shall be established by rule to**  
 21 **enable any person, including the state, to:**

- 22           (1) file the necessary papers; and  
 23           (2) present the person's case in court;

24 **either to seek or to defend against a small claim without consulting**  
 25 **or being represented by an attorney.**

26           **Sec. 8. Upon the filing of a complaint, service shall be made as**  
 27 **provided by the Indiana trial rules.**

28           **Sec. 9. A trial:**

- 29           (1) must be informal, with the sole objective of dispensing  
 30 speedy justice between the parties according to the rules of  
 31 substantive law; and  
 32           (2) may not be bound by the statutory provisions or rules of  
 33 practice, procedure, pleadings, or evidence, except the  
 34 provisions relating to privileged communications and offers  
 35 of compromise.

36           **Sec. 10. There may not be a trial by jury in the small claims**  
 37 **court.**

38           **Sec. 11. (a) A filing of a civil claim in the small claims court**  
 39 **constitutes a waiver of trial by jury by the plaintiff.**

40           **(b) A defendant in a small claims case waives the right to trial**  
 41 **by jury unless the defendant requests a jury trial at least ten (10)**  
 42 **calendar days before the trial date that appears on the complaint.**



1 Upon the filing of a jury trial request, the small claims court shall  
 2 transfer the claim to the superior court of the county. The  
 3 defendant shall pay all costs necessary for filing the claim in the  
 4 superior court as if the cause had been filed initially in that court.

5 (c) A notice of claim filed in the small claims court must include  
 6 a statement that reflects the provisions of subsection (b).

7 Sec. 12. (a) If the judgment or order is against the defendant, the  
 8 defendant shall pay the judgment at any time and upon terms and  
 9 conditions as the judge orders.

10 (b) If the judge orders that the judgment be paid in specified  
 11 installments, the judge may stay the issuance of execution and  
 12 other supplementary process during the period of compliance with  
 13 the order.

14 (c) A stay ordered under subsection (b) may be modified or  
 15 vacated by the court.

16 Sec. 13. (a) All judgments rendered in civil actions may be  
 17 recorded in the judgment docket book of the proper division of the  
 18 small claims court.

19 (b) A judgment entered by a small claims court is a lien on real  
 20 estate when entered in the circuit court judgment docket in the  
 21 same manner as a judgment in a court of general jurisdiction  
 22 becomes a lien on real estate under IC 34-55-9.

23 (c) The clerk of the court shall keep a docket in which  
 24 judgments shall be entered and properly indexed in the name of the  
 25 judgment defendant as judgments of circuit courts are entered and  
 26 indexed.

27 Sec. 14. (a) All appeals from judgments of the small claims court  
 28 shall be taken to the circuit court or superior court of the county  
 29 and tried de novo.

30 (b) The rules of procedure for appeals must be in accordance  
 31 with the rules established by the circuit court and superior court.

32 (c) The appellant shall pay all costs necessary for the filing of  
 33 the case in the circuit court or superior court, as if the appeal were  
 34 a case that had been filed initially in that court.

#### 35 Chapter 4. Powers

##### 36 Sec. 1. A judge may:

- 37 (1) administer oaths;
- 38 (2) take and certify acknowledgements of deeds; and
- 39 (3) give all necessary certificates for the authentication of the  
 40 records and proceedings of the small claims court.

41 Sec. 2. The small claims court has the same power as the circuit  
 42 court in relation to the:



- 1 (1) attendance of witnesses;  
 2 (2) punishment of contempts; and  
 3 (3) enforcement of its orders.

4 **Sec. 3. A judge may:**

- 5 (1) issue and direct all process to individuals and corporations  
 6 necessary to exercise the jurisdiction of the court;  
 7 (2) make all proper judgment, sentences, decrees, and orders;  
 8 and  
 9 (3) do all acts necessary or proper in conformity with state  
 10 laws;

11 assisted as necessary by the clerk of the circuit court.

12 **Sec. 4. Each judge may solemnize marriages.**

13 **Chapter 5. Transfer of Cases, Absent Judge, and Special Judge**

14 **Sec. 1. The executive committee may transfer cases from one (1)  
 15 small claims court division to another as necessary.**

16 **Sec. 2. (a) A judge of the circuit or superior court may order a  
 17 cause filed in the circuit or superior court to be transferred to the  
 18 small claims court if the:**

- 19 (1) small claims court has jurisdiction of the cause concurrent  
 20 with the circuit or superior court; and  
 21 (2) judge consents to the transfer.

22 (b) If a judge of the circuit or superior court orders a cause  
 23 transferred under this section, the clerk of the circuit court shall  
 24 randomly assign the cause to a division of the small claims court.

25 **Sec. 3. The judges of the small claims court may sit in place of  
 26 each other and perform each other's duties:**

- 27 (1) at the direction of or with the approval of the executive  
 28 committee; and  
 29 (2) with the consent of the respective judges.

30 **Sec. 4. (a) If a judge is unable to preside over the judge's small  
 31 claims court during any number of days, the judge may appoint in  
 32 writing a person qualified to be a small claims judge under  
 33 IC 33-34.1-2-2 to preside in place of the judge.**

34 (b) The written appointment shall be entered on the order book  
 35 or record of the superior court, as directed by the executive  
 36 committee. The appointee shall, after taking the oath prescribed  
 37 for the judges, conduct the business of the small claims court  
 38 subject to the same rules and regulations as judges and has the  
 39 same authority during the continuance of the appointee's  
 40 appointment.

41 (c) The appointee is entitled to the same compensation as  
 42 accruable to the small claims judge in whose place the appointee is



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servicing.  
Sec. 5. (a) A judge absent from the bench for more than thirty (30) days shall deposit the dockets, books, and papers of the office with the:

- (1) small claims judge of another division; or
  - (2) executive committee;
- as directed by the executive committee.

(b) A:

- (1) judge with whom the docket of another judge is deposited during a vacancy or an absence; and
- (2) successor of any judge who has the dockets of the successor's predecessor in the successor's possession;

may perform all duties that the judge might do legally in relation to the judge's own dockets.

(c) Process shall be returned to the judge who has the legal custody of the docket at the day of return.

Sec. 6. (a) Only another judge may serve as a special judge in the small claims court.

(b) Except for mileage and travel expense, a judge serving as a special judge under this section may not receive compensation in addition to the salary provided under this article.

**Chapter 6. Facilities and Personnel**

Sec. 1. The township trustee shall provide a courtroom and an office for the judge of the small claims division in a convenient location within the township that has:

- (1) adequate access;
- (2) sufficient parking facilities;
- (3) a separate and appropriate courtroom;
- (4) proper space and facilities for the bailiff, clerks, and other employees; and
- (5) enough room for files and supplies.

Sec. 2. A township shall:

- (1) furnish all:
  - (A) supplies, including all blanks, forms, stationery, and papers of every kind, required for use in all cases in the small claims division; and
  - (B) furniture, books, and other necessary equipment and supplies; and
- (2) provide for all necessary maintenance and upkeep of the facilities where court is held.

Sec. 3. (a) Each township shall provide an appropriate and competitive salary for the number of clerks for the small claims



- 1 court sufficient to:
- 2 (1) operate efficiently; and
- 3 (2) adequately serve the citizens doing business with the court.
- 4 (b) The clerks of a small claims court division:
- 5 (1) shall be appointed by the judge of the division; and
- 6 (2) serve at the pleasure of the judge of the division.
- 7 Sec. 4. (a) The voters of each township shall elect a constable for
- 8 the small claims court division located in that township at the
- 9 general election every four (4) years for a term of office of four (4)
- 10 years, beginning January 1 after election and continuing until a
- 11 successor is elected and qualified. The ballot must state the:
- 12 (1) name of the candidate; and
- 13 (2) division of the small claims court for which the candidate
- 14 is to serve.
- 15 (b) Each small claims court division shall have a constable who:
- 16 (1) acts as the bailiff of the court;
- 17 (2) serves the court's personal service of process;
- 18 (3) has police powers to:
- 19 (A) make arrests;
- 20 (B) keep the peace; and
- 21 (C) carry out the orders of the court;
- 22 (4) must meet the qualifications prescribed by IC 3-8-1-31;
- 23 (5) is compensated for each process that is delivered to effect
- 24 personal service when serving as the bailiff for the court;
- 25 (6) is responsible for:
- 26 (A) the preparation and mailing of all registered or
- 27 certified service and is compensated for each process
- 28 served by mail; and
- 29 (B) all the official acts of the deputies;
- 30 (7) is compensated solely from the service of process fees
- 31 collected under IC 33-34.1-8-1; and
- 32 (8) may require a deputy to give a bond for the proper
- 33 discharge of the deputy's duties for an amount fixed by the
- 34 constable.
- 35 (c) The elected constable may appoint full-time and part-time
- 36 deputies for assistance in the performance of official duties who:
- 37 (1) perform all the official duties required to be performed by
- 38 the constable;
- 39 (2) possess the same statutory and common law powers and
- 40 authority as the constable;
- 41 (3) must take the same oath required of the constable;
- 42 (4) are compensated solely from the service of process fees



1 collected under IC 33-34.1-8-1; and

2 (5) serve at the pleasure of the constable and may be  
3 dismissed at any time with or without cause.

4 (d) If there is an:

5 (1) emergency; or

6 (2) inability of a constable to carry out the constable's duties;  
7 the judge may appoint a special constable to carry out the duties of  
8 the constable during the emergency or inability.

9 **Chapter 7. Records; Reports; Accounting**

10 **Sec. 1.** The state board of accounts shall provide rules, in  
11 cooperation with the appropriate county officers, to specify the:

12 (1) forms; and

13 (2) records;

14 for the handling and reporting of money and other property by or  
15 in connection with the small claims court.

16 **Sec. 2.** Each judge shall prepare, certify, and file quarterly  
17 reports on March 31, June 30, September 30, and December 31 of  
18 each year with the supreme court, which must include the:

19 (1) total case filings;

20 (2) dispositions; and

21 (3) cases remaining open;

22 broken down by the type of case, in a form approved by and  
23 distributed under the direction of the circuit court judge.

24 **Sec. 3.** The executive committee, with the assistance of the clerk  
25 of the circuit court, the judges of the small claims courts, and the  
26 state board of accounts, shall, at the expense of the townships:

27 (1) provide the forms, blanks, court calendar books, judgment  
28 dockets, and fee books; and

29 (2) make rules and instructions to direct the judges in keeping  
30 records and making reports.

31 The clerk of the circuit court shall keep full and permanent records  
32 and reports of each judge's past and current proceedings, indexed  
33 and available for reference as a public record.

34 **Chapter 8. Fees and Costs**

35 **Sec. 1. (a)** The following fees and costs apply to cases in the  
36 small claims court:

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

40 (2) The bailiff's service of process by registered or certified  
41 mail fee of thirteen dollars (\$13) for each service.

42 (3) The cost for the personal service of process by the bailiff





- 1 or other process server of thirteen dollars (\$13) for each
- 2 service.
- 3 (4) Witness fees, if any, in the amount provided by
- 4 IC 33-37-10-3 to be taxed and charged in the circuit court.
- 5 (5) A redocketing fee, if any, of five dollars (\$5).
- 6 (6) A document storage fee under IC 33-37-5-20.
- 7 (7) An automated record keeping fee under IC 33-37-5-21.
- 8 (8) A late fee, if any, under IC 33-37-5-22.
- 9 (9) A public defense administration fee under IC 33-37-5-21.2.
- 10 (10) A judicial insurance adjustment fee under IC 33-37-5-25.
- 11 (11) A judicial salaries fee under IC 33-37-5-26.
- 12 (12) A court administration fee under IC 33-37-5-27.
- 13 (13) Before July 1, 2017, a pro bono legal services fee under
- 14 IC 33-37-5-31.

15 The docket fee and the cost for the initial service of process shall be  
 16 paid at the institution of a case. If a case is randomly reassigned to  
 17 another division of the small claims court under IC 33-34.1-3-1, the  
 18 docket fee shall be transferred in accordance with the rules  
 19 adopted by the executive committee. The cost of service after the  
 20 initial service shall be assessed and paid after service has been  
 21 made. The cost of witness fees shall be paid before the witnesses  
 22 are called.

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

26 Sec. 2. The person who is designated by a judge to prepare  
 27 transcripts may collect a fee of not more than five dollars (\$5) for  
 28 each transcript from a person who requests the preparation of a  
 29 transcript.

30 Sec. 3. (a) Payment for all costs made as a result of proceedings  
 31 in a small claims court shall be to the "Marion County Small  
 32 Claims Court, Division \_\_\_\_\_" (insert the number of the division  
 33 in the blank). The court shall issue a receipt for all money received  
 34 on a form numbered serially in duplicate. All township docket fees  
 35 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
    - 41 protection unit account established by IC 4-6-12-9 and the
    - 42 state user fee fund established under IC 33-37-9;



- 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**  
 6           **the 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**  
 9           **branch insurance adjustment account established by**  
 10           **IC 33-38-5-8.2;**  
 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**  
 13           **the state general fund; and**  
 14           **(F) one hundred percent (100%) of the pro bono legal**  
 15           **services fees collected before July 1, 2017, by the court**  
 16           **under IC 33-37-5-31; and**  
 17           **(2) distribute monthly to the county auditor all document**  
 18           **storage fees received by the court.**

19           **The remaining twenty-five percent (25%) of the judicial salaries**  
 20           **fees described in subdivision (1)(E) shall be deposited monthly in**  
 21           **the township general fund of the township in which the division to**  
 22           **which the case is assigned is located, in accordance with rules**  
 23           **adopted by the executive committee. The county auditor shall**  
 24           **deposit fees distributed under subdivision (2) into the clerk's**  
 25           **record perpetuation fund under IC 33-37-5-2.**

26           **(c) The court semiannually shall pay to the township trustee of**  
 27           **the township in which the division to which a case is assigned is**  
 28           **located the remaining forty percent (40%) of the court**  
 29           **administration fees described under subsection (b)(1)(C), in**  
 30           **accordance with rules adopted by the executive committee, to fund**  
 31           **the operations of the small claims court division in the trustee's**  
 32           **township.**

### 33           **Chapter 9. Filing**

34           **Sec. 1. (a) A new case may be filed with the clerk of the circuit**  
 35           **court or with any clerk of a small claims court division.**

36           **(b) If a new case is filed with the clerk of a small claims division,**  
 37           **the clerk shall transmit the file-stamped pleadings and the filing fee**  
 38           **to the clerk of the circuit court not later than the end of the**  
 39           **following business day, in accordance with rules adopted by the**  
 40           **executive committee.**

41           **(c) The clerk of the circuit court shall randomly assign a new**  
 42           **case filed with the clerk of:**



1           (1) the circuit court; and

2           (2) a small claims court division and transmitted to the clerk  
3           of the circuit court;

4 to one (1) of the nine (9) divisions of the small claims court in  
5 accordance with IC 33-34.1-3-1 and rules adopted by the executive  
6 committee.

7           (d) A new case filed with the clerk of a small claims court  
8 division is filed on the date it was filed with the clerk of the small  
9 claims court division.

10          Sec. 2. After a case has been assigned to a small claims court  
11 division, all documents relating to the case shall be filed with the  
12 clerk of that small claims court division.

13          Sec. 3. The executive committee shall adopt rules to implement  
14 this chapter.

15          Chapter 10. Marion County Small Claims Court Executive  
16 Committee

17          Sec. 1. As used in this chapter, "executive committee" means the  
18 Marion County small claims court executive committee established  
19 by section 2 of this chapter.

20          Sec. 2. The Marion County small claims court executive  
21 committee is established.

22          Sec. 3. (a) Not more than thirty (30) days after the election, the  
23 judges-elect shall meet and designate two (2) of the judges as the  
24 executive committee for administrative purposes. The judges may  
25 not be a member of the same political party.

26          (b) The affirmative vote of seven (7) of the judges-elect is  
27 required to elect a judge to the executive committee.

28          (c) If all vacancies cannot be filled by the affirmative vote of  
29 seven (7) of the judges-elect, vacancies may be filled as provided by  
30 court rule; however, each member of the executive committee must  
31 be a member of a different political party.

32          Sec. 4. The executive committee is responsible for the operation  
33 and conduct of the court.

34          Sec. 5. A member of the executive committee serves for a term  
35 of four (4) years beginning on the date of the member's election.  
36 Except for the rotation of the presiding judge as provided in  
37 section 6 of this chapter, any or all of the members elected to the  
38 executive committee may be reelected.

39          Sec. 6. (a) One (1) of the two (2) judges elected to the executive  
40 committee shall be elected as presiding judge.

41          (b) A presiding judge may not be elected from the same political  
42 party as the presiding judge who served the previous term. For the



1 election of the executive committee conducted in 2015, the  
 2 presiding judge shall be the judge who receives at least five (5)  
 3 affirmative votes. The presiding judge in subsequent elections shall  
 4 be selected by a simple majority of those judges who are not  
 5 members of the same political party as the presiding judge who  
 6 served the previous term.

7 (c) Each judge who is a member of the executive committee has  
 8 an equal vote in all matters pertaining to the business of the court  
 9 when an action requires a majority vote. If a tie vote occurs, the  
 10 presiding judge shall cast the tiebreaking vote.

11 (d) Any action taken by the executive committee may be  
 12 overruled by the affirmative vote of seven (7) of all the judges  
 13 sitting at the time the vote is taken.

14 (e) After a judge is assigned to a division under IC 33-34.1-2-4,  
 15 the reassignment of that judge to a different division requires a  
 16 unanimous vote of the executive committee.

17 (f) The executive committee shall perform other duties as  
 18 determined by rules of the court.

19 (g) The executive committee shall keep appropriate records of  
 20 rules, orders, and assignments of the court.

21 SECTION 10. IC 33-37-4-4, AS AMENDED BY P.L.231-2013,  
 22 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 UPON PASSAGE]: Sec. 4. (a) The clerk shall collect a civil costs fee  
 24 of one hundred dollars (\$100) from a party filing a civil action. This  
 25 subsection does not apply to the following civil actions:

- 26 (1) Proceedings to enforce a statute defining an infraction under
- 27 IC 34-28-5 (or IC 34-4-32 before its repeal).
- 28 (2) Proceedings to enforce an ordinance under IC 34-28-5 (or
- 29 IC 34-4-32 before its repeal).
- 30 (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- 31 (4) Proceedings in paternity under IC 31-14.
- 32 (5) Proceedings in small claims court under ~~IC 33-34~~ **IC 33-34.1**.
- 33 (6) Proceedings in actions described in section 7 of this chapter.

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

- 37 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
- 38 IC 33-37-5-4).
- 39 (2) A support and maintenance fee (IC 33-37-5-6).
- 40 (3) A document storage fee (IC 33-37-5-20).
- 41 (4) An automated record keeping fee (IC 33-37-5-21).
- 42 (5) A public defense administration fee (IC 33-37-5-21.2).



- 1 (6) A judicial insurance adjustment fee (IC 33-37-5-25).  
 2 (7) A judicial salaries fee (IC 33-37-5-26).  
 3 (8) A court administration fee (IC 33-37-5-27).  
 4 (9) A service fee (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).  
 5 (10) A garnishee service fee (IC 33-37-5-28(b)(3) or  
 6 IC 33-37-5-28(b)(4)).  
 7 (11) For a mortgage foreclosure action, a mortgage foreclosure  
 8 counseling and education fee (IC 33-37-5-32) (before its  
 9 expiration on January 1, 2015).  
 10 (12) Before July 1, 2017, a pro bono legal services fee  
 11 (IC 33-37-5-31).

12 SECTION 11. IC 33-37-5-21.2, AS AMENDED BY P.L.229-2011,  
 13 SECTION 259, IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE UPON PASSAGE]: Sec. 21.2. (a) This subsection does  
 15 not apply to the following:

- 16 (1) A criminal proceeding.  
 17 (2) A proceeding to enforce a statute defining an infraction.  
 18 (3) A proceeding for an ordinance violation.  
 19 In each action filed in a court described in IC 33-37-1-1 and in each  
 20 small claims action in a the court described in ~~IC 33-34~~, **IC 33-34.1**,  
 21 the clerk shall collect a public defense administration fee of five dollars  
 22 (\$5).

- 23 (b) In each action in which a person is:  
 24 (1) convicted of an offense;  
 25 (2) required to pay a pretrial diversion fee;  
 26 (3) found to have committed an infraction; or  
 27 (4) found to have violated an ordinance;  
 28 the clerk shall collect a public defense administration fee of five dollars  
 29 (\$5).

30 SECTION 12. IC 33-37-5-22, AS AMENDED BY P.L.143-2013,  
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 UPON PASSAGE]: Sec. 22. (a) Except as provided in subsections (e)  
 33 and (f), this section applies to an action if all the following apply:

- 34 (1) The defendant is found, in a court that has a local court rule  
 35 imposing a late payment fee under this section, to have:  
 36 (A) committed a crime;  
 37 (B) violated a statute defining an infraction;  
 38 (C) violated an ordinance of a municipal corporation; or  
 39 (D) committed a delinquent act.  
 40 (2) The defendant is required to pay:  
 41 (A) court costs, including fees;  
 42 (B) a fine; or



- 1 (C) a civil penalty.
- 2 (3) The defendant is not determined by the court imposing the
- 3 court costs, fine, or civil penalty to be indigent.
- 4 (4) The defendant fails to pay to the clerk the costs, fine, or civil
- 5 penalty in full before the later of the following:
- 6 (A) The end of the business day on which the court enters the
- 7 conviction or judgment.
- 8 (B) The end of the period specified in a payment schedule set
- 9 for the payment of court costs, fines, and civil penalties under
- 10 rules adopted for the operation of the court.
- 11 (b) A court may adopt a local rule to impose a late payment fee
- 12 under this section on defendants described in subsection (a).
- 13 (c) Subject to subsection (d), the clerk of a court that adopts a local
- 14 rule imposing a late payment fee under this section shall collect a late
- 15 payment fee of twenty-five dollars (\$25) from a defendant described in
- 16 subsection (a).
- 17 (d) Notwithstanding IC 33-37-2-2, a court may suspend a late
- 18 payment fee if the court finds that the defendant has demonstrated good
- 19 cause for failure to make a timely payment of court costs, a fine, or a
- 20 civil penalty.
- 21 (e) A plaintiff or defendant in an action under ~~IC 33-34~~ **IC 33-34.1**
- 22 shall pay a late fee of twenty-five dollars (\$25) if the plaintiff or
- 23 defendant:
- 24 (1) is required to pay court fees or costs under ~~IC 33-34-8-1;~~
- 25 **IC 33-34.1-8-1;**
- 26 (2) is not determined by the court imposing the court costs to be
- 27 indigent; and
- 28 (3) fails to pay the costs in full before the later of the following:
- 29 (A) The end of the business day on which the court enters the
- 30 judgment.
- 31 (B) The end of the period specified in a payment schedule set
- 32 for the payment of court costs under rules adopted for the
- 33 operation of the court.
- 34 A court may suspend a late payment fee if the court finds that the
- 35 plaintiff or defendant has demonstrated good cause for failure to make
- 36 timely payment of the fee.
- 37 (f) Notwithstanding IC 33-37-4-2(f), IC 34-28-5-5(a), and
- 38 IC 34-28-5-5(b), the defendant shall pay a late payment fee of
- 39 twenty-five dollars (\$25) if the defendant:
- 40 (1) is found to have committed a violation constituting a Class D
- 41 infraction or Class C infraction under IC 5-16-9-5 or IC 5-16-9-8
- 42 for unlawfully parking in a space reserved for a person with a



- 1 physical disability;  
 2 (2) is required to pay a fine or civil judgment;  
 3 (3) is not determined by the court imposing the fine or civil  
 4 judgment to be indigent; and  
 5 (4) fails to pay the fine or civil judgment in full before the later of:  
 6 (A) the end of the business day on which the court imposes the  
 7 fine or civil judgment; or  
 8 (B) the end of the period specified in a payment schedule set  
 9 for the payment of fines and civil judgments under rules  
 10 adopted for the operation of the court.

11 However, the court may suspend a late payment fee under this section  
 12 if the court finds that the defendant has demonstrated good cause for  
 13 failure to make timely payment of the fee.

14 SECTION 13. IC 33-37-5-26, AS AMENDED BY P.L.3-2008,  
 15 SECTION 241, IS AMENDED TO READ AS FOLLOWS  
 16 [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) This subsection does not  
 17 apply to the following:

- 18 (1) A criminal proceeding.  
 19 (2) A proceeding for an infraction violation.  
 20 (3) A proceeding for an ordinance violation.  
 21 (4) A small claims action.

22 In each action filed in a court described in IC 33-37-1-1, the clerk shall  
 23 collect a judicial salaries fee equal to the amount specified in the  
 24 schedule in subsection (d).

25 (b) In each small claims action filed in a court described in  
 26 IC 33-37-1-1 or ~~IC 33-34~~, **IC 33-34.1**, the clerk shall collect a judicial  
 27 salaries fee specified in the schedule in subsection (e).

28 (c) In each action in which a person is:

- 29 (1) convicted of an offense;  
 30 (2) required to pay a pretrial diversion fee;  
 31 (3) found to have committed an infraction; or  
 32 (4) found to have violated an ordinance;

33 the clerk shall collect a judicial salaries fee specified in the schedule in  
 34 subsection (d).

35 (d) Beginning:

- 36 (1) after June 30, 2005, and ending before July 1 of the first state  
 37 fiscal year after June 30, 2006, in which salaries are increased  
 38 under IC 33-38-5-8.1, the judicial salaries fee to which this  
 39 subsection applies is fifteen dollars (\$15);  
 40 (2) after June 30 immediately preceding the first state fiscal year  
 41 in which salaries are increased under IC 33-38-5-8.1 and ending  
 42 before July 1 of the second state fiscal year after June 30, 2006,



- 1 in which salaries are increased under IC 33-38-5-8.1, the judicial  
2 salaries fee to which this subsection applies is sixteen dollars  
3 (\$16);  
4 (3) after June 30 immediately preceding the second state fiscal  
5 year in which salaries are increased under IC 33-38-5-8.1 and  
6 ending before July 1 of the third state fiscal year after June 30,  
7 2006, in which salaries are increased under IC 33-38-5-8.1, the  
8 judicial salaries fee to which this subsection applies is seventeen  
9 dollars (\$17);  
10 (4) after June 30 immediately preceding the third state fiscal year  
11 in which salaries are increased under IC 33-38-5-8.1 and ending  
12 before July 1 of the fourth state fiscal year after June 30, 2006, in  
13 which salaries are increased under IC 33-38-5-8.1, the judicial  
14 salaries fee to which this subsection applies is eighteen dollars  
15 (\$18);  
16 (5) after June 30 immediately preceding the fourth state fiscal  
17 year in which salaries are increased under IC 33-38-5-8.1 and  
18 ending before July 1 of the fifth state fiscal year after June 30,  
19 2006, in which salaries are increased under IC 33-38-5-8.1, the  
20 judicial salaries fee to which this subsection applies is nineteen  
21 dollars (\$19); and  
22 (6) after June 30 immediately preceding the fifth state fiscal year  
23 in which salaries are increased under IC 33-38-5-8.1, the judicial  
24 salaries fee to which this subsection applies is twenty dollars  
25 (\$20).  
26 (e) Beginning:  
27 (1) after June 30, 2005, and ending before July 1 of the first state  
28 fiscal year after June 30, 2006, in which salaries are increased  
29 under IC 33-38-5-8.1, the judicial salaries fee to which this  
30 subsection applies is ten dollars (\$10);  
31 (2) after June 30 immediately preceding the first state fiscal year  
32 in which salaries are increased under IC 33-38-5-8.1 and ending  
33 before July 1 of the second state fiscal year after June 30, 2006,  
34 in which salaries are increased under IC 33-38-5-8.1, the judicial  
35 salaries fee to which this subsection applies is eleven dollars  
36 (\$11);  
37 (3) after June 30 immediately preceding the second state fiscal  
38 year in which salaries are increased under IC 33-38-5-8.1 and  
39 ending before July 1 of the third state fiscal year after June 30,  
40 2006, in which salaries are increased under IC 33-38-5-8.1, the  
41 judicial salaries fee to which this subsection applies is twelve  
42 dollars (\$12);





- 1 (4) after June 30 immediately preceding the third state fiscal year  
 2 in which salaries are increased under IC 33-38-5-8.1 and ending  
 3 before July 1 of the fourth state fiscal year after June 30, 2006, in  
 4 which salaries are increased under IC 33-38-5-8.1, the judicial  
 5 salaries fee to which this subsection applies is thirteen dollars  
 6 (\$13);  
 7 (5) after June 30 immediately preceding the fourth state fiscal  
 8 year in which salaries are increased under IC 33-38-5-8.1 and  
 9 ending before July 1 of the fifth state fiscal year after June 30,  
 10 2006, in which salaries are increased under IC 33-38-5-8.1, the  
 11 judicial salaries fee to which this subsection applies is fourteen  
 12 dollars (\$14); and  
 13 (6) after June 30 immediately preceding the fifth state fiscal year  
 14 in which salaries are increased under IC 33-38-5-8.1, the judicial  
 15 salaries fee to which this subsection applies is fifteen dollars  
 16 (\$15).

17 SECTION 14. IC 33-37-5-27, AS AMENDED BY P.L.122-2008,  
 18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 UPON PASSAGE]: Sec. 27. (a) This subsection does not apply to the  
 20 following:

- 21 (1) A criminal proceeding.  
 22 (2) A proceeding to enforce a statute defining an infraction.  
 23 (3) A proceeding for an ordinance violation.

24 In each action filed in a court described in IC 33-37-1-1, and in each  
 25 small claims action in a the court described in ~~IC 33-34~~, **IC 33-34.1**,  
 26 the clerk shall collect a court administration fee of five dollars (\$5).

27 (b) In each action in which a person is:

- 28 (1) convicted of an offense;  
 29 (2) required to pay a pretrial diversion fee;  
 30 (3) found to have committed an infraction; or  
 31 (4) found to have violated an ordinance;

32 the clerk shall collect a court administration fee of five dollars (\$5).

33 SECTION 15. IC 33-37-5-31, AS ADDED BY P.L.136-2012,  
 34 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 UPON PASSAGE]: Sec. 31. In each:

- 36 (1) civil action in which the clerk is required to collect a civil  
 37 costs fee under IC 33-37-4-4(a);  
 38 (2) small claims action in which:  
 39 (A) a party is required to pay a township docket fee under  
 40 ~~IC 33-34-8-1(a)(1)~~; **IC 33-34.1-8-1(a)(1)**; or  
 41 (B) the clerk is required to collect a small claims costs fee  
 42 under IC 33-37-4-6; or



1 (3) probate action in which the clerk is required to collect a  
 2 probate costs fee under IC 33-37-4-7(a);  
 3 the clerk shall, before July 1, 2017, collect a pro bono legal services fee  
 4 of one dollar (\$1).

5 SECTION 16. IC 33-37-7-2, AS AMENDED BY P.L.284-2013,  
 6 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 UPON PASSAGE]: Sec. 2. (a) The clerk of a circuit court shall  
 8 distribute semiannually to the auditor of state as the state share for  
 9 deposit in the homeowner protection unit account established by  
 10 IC 4-6-12-9 one hundred percent (100%) of the automated record  
 11 keeping fees collected under IC 33-37-5-21 with respect to actions  
 12 resulting in the accused person entering into a pretrial diversion  
 13 program agreement under IC 33-39-1-8 or a deferral program  
 14 agreement under IC 34-28-5-1 and for deposit in the state general fund  
 15 seventy percent (70%) of the amount of fees collected under the  
 16 following:

- 17 (1) IC 33-37-4-1(a) (criminal costs fees).
- 18 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 19 (3) IC 33-37-4-3(a) (juvenile costs fees).
- 20 (4) IC 33-37-4-4(a) (civil costs fees).
- 21 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 22 (6) IC 33-37-4-7(a) (probate costs fees).
- 23 (7) IC 33-37-5-17 (deferred prosecution fees).

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

- 27 (1) Twenty-five percent (25%) of the drug abuse, prosecution,  
 28 interdiction, and correction fees collected under  
 29 IC 33-37-4-1(b)(5).
- 30 (2) Twenty-five percent (25%) of the alcohol and drug  
 31 countermeasures fees collected under IC 33-37-4-1(b)(6),  
 32 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 33 (3) One hundred percent (100%) of the child abuse prevention  
 34 fees collected under IC 33-37-4-1(b)(7).
- 35 (4) One hundred percent (100%) of the domestic violence  
 36 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- 37 (5) One hundred percent (100%) of the highway work zone fees  
 38 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 39 (6) One hundred percent (100%) of the safe schools fee collected  
 40 under IC 33-37-5-18.
- 41 (7) The following:  
 42 (A) For a county operating under the state's automated judicial



- 1 system, one hundred percent (100%) of the automated record  
 2 keeping fee (IC 33-37-5-21) not distributed under subsection  
 3 (a).  
 4 (B) This clause applies before July 1, 2013, and after June 30,  
 5 2015. For a county not operating under the state's automated  
 6 judicial system, eighty percent (80%) of the automated record  
 7 keeping fee (IC 33-37-5-21) not distributed under subsection  
 8 (a).  
 9 (C) This clause applies after June 30, 2013, and before July 1,  
 10 2015. For a county not operating under the state's automated  
 11 judicial system, five dollars (\$5) of the automated record  
 12 keeping fee (IC 33-37-5-21) not distributed under subsection  
 13 (a).  
 14 (c) The clerk of a circuit court shall distribute monthly to the county  
 15 auditor the following:  
 16 (1) Seventy-five percent (75%) of the drug abuse, prosecution,  
 17 interdiction, and correction fees collected under  
 18 IC 33-37-4-1(b)(5).  
 19 (2) Seventy-five percent (75%) 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 The county auditor shall deposit fees distributed by a clerk under this  
 23 subsection into the county drug free community fund established under  
 24 IC 5-2-11.  
 25 (d) The clerk of a circuit court shall distribute monthly to the county  
 26 auditor one hundred percent (100%) of the late payment fees collected  
 27 under IC 33-37-5-22. The county auditor shall deposit fees distributed  
 28 by a clerk under this subsection as follows:  
 29 (1) If directed to do so by an ordinance adopted by the county  
 30 fiscal body, the county auditor shall deposit forty percent (40%)  
 31 of the fees in the clerk's record perpetuation fund established  
 32 under IC 33-37-5-2 and sixty percent (60%) of the fees in the  
 33 county general fund.  
 34 (2) If the county fiscal body has not adopted an ordinance  
 35 described in subdivision (1), the county auditor shall deposit all  
 36 the fees in the county general fund.  
 37 (e) The clerk of the circuit court shall distribute semiannually to the  
 38 auditor of state for deposit in the sexual assault victims assistance  
 39 account established by IC 5-2-6-23(h) one hundred percent (100%) of  
 40 the sexual assault victims assistance fees collected under  
 41 IC 33-37-5-23.  
 42 (f) The clerk of a circuit court shall distribute monthly to the county



- 1 auditor the following:
- 2 (1) One hundred percent (100%) of the support and maintenance
- 3 fees for cases designated as non-Title IV-D child support cases in
- 4 the Indiana support enforcement tracking system (ISETS) or the
- 5 successor statewide automated support enforcement system
- 6 collected under IC 33-37-5-6.
- 7 (2) The percentage share of the support and maintenance fees for
- 8 cases designated as Title IV-D child support cases in ISETS or the
- 9 successor statewide automated support enforcement system
- 10 collected under IC 33-37-5-6 that is reimbursable to the county at
- 11 the federal financial participation rate.
- 12 The county clerk shall distribute monthly to the department of child
- 13 services the percentage share of the support and maintenance fees for
- 14 cases designated as Title IV-D child support cases in ISETS, or the
- 15 successor statewide automated support enforcement system, collected
- 16 under IC 33-37-5-6 that is not reimbursable to the county at the
- 17 applicable federal financial participation rate.
- 18 (g) The clerk of a circuit court shall distribute monthly to the county
- 19 auditor the following:
- 20 (1) One hundred percent (100%) of the small claims service fee
- 21 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in
- 22 the county general fund.
- 23 (2) One hundred percent (100%) of the small claims garnishee
- 24 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for
- 25 deposit in the county general fund.
- 26 (h) This subsection does not apply to court administration fees
- 27 collected in small claims actions filed in a ~~the~~ court described in
- 28 ~~IC 33-34~~. **IC 33-34.1.** The clerk of a circuit court shall semiannually
- 29 distribute to the auditor of state for deposit in the state general fund one
- 30 hundred percent (100%) of the following:
- 31 (1) The public defense administration fee collected under
- 32 IC 33-37-5-21.2.
- 33 (2) The judicial salaries fees collected under IC 33-37-5-26.
- 34 (3) The DNA sample processing fees collected under
- 35 IC 33-37-5-26.2.
- 36 (4) The court administration fees collected under IC 33-37-5-27.
- 37 (i) The clerk of a circuit court shall semiannually distribute to the
- 38 auditor of state for deposit in the judicial branch insurance adjustment
- 39 account established by IC 33-38-5-8.2 one hundred percent (100%) of
- 40 the judicial insurance adjustment fee collected under IC 33-37-5-25.
- 41 (j) The proceeds of the service fee collected under
- 42 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as



- 1 follows:
- 2 (1) The clerk shall distribute one hundred percent (100%) of the
- 3 service fees collected in a circuit, superior, county, or probate
- 4 court to the county auditor for deposit in the county general fund.
- 5 (2) The clerk shall distribute one hundred percent (100%) of the
- 6 service fees collected in a city or town court to the city or town
- 7 fiscal officer for deposit in the city or town general fund.
- 8 (k) The proceeds of the garnishee service fee collected under
- 9 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
- 10 follows:
- 11 (1) The clerk shall distribute one hundred percent (100%) of the
- 12 garnishee service fees collected in a circuit, superior, county, or
- 13 probate court to the county auditor for deposit in the county
- 14 general fund.
- 15 (2) The clerk shall distribute one hundred percent (100%) of the
- 16 garnishee service fees collected in a city or town court to the city
- 17 or town fiscal officer for deposit in the city or town general fund.
- 18 (l) The clerk of the circuit court shall distribute semiannually to the
- 19 auditor of state for deposit in the home ownership education account
- 20 established by IC 5-20-1-27 one hundred percent (100%) of the
- 21 following:
- 22 (1) The mortgage foreclosure counseling and education fees
- 23 collected under IC 33-37-5-32 (before its expiration on January
- 24 1, 2015).
- 25 (2) Any civil penalties imposed and collected by a court for a
- 26 violation of a court order in a foreclosure action under
- 27 IC 32-30-10.5.
- 28 (m) This subsection applies to a county that is not operating under
- 29 the state's automated judicial system. The clerk of a circuit court shall
- 30 distribute monthly to the county auditor the following part of the
- 31 automated record keeping fee (IC 33-37-5-21) not distributed under
- 32 subsection (a) for deposit in the clerk's record perpetuation fund:
- 33 (1) Twenty percent (20%), before July 1, 2013, and after June 30,
- 34 2015.
- 35 (2) Two dollars (\$2) of each fee collected, after June 30, 2013,
- 36 and before July 1, 2015.
- 37 (n) The clerk of a circuit court shall distribute semiannually to the
- 38 auditor of state one hundred percent (100%) of the pro bono legal
- 39 services fees collected before July 1, 2017, under IC 33-37-5-31. The
- 40 auditor of state shall transfer semiannually the pro bono legal services
- 41 fees to the Indiana Bar Foundation (or a successor entity) as the entity
- 42 designated to organize and administer the interest on lawyers trust



1 accounts (IOLTA) program under Rule 1.15 of the Rules of  
 2 Professional Conduct of the Indiana supreme court. The Indiana Bar  
 3 Foundation shall:

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

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

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

17 SECTION 17. IC 33-41-1-7 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section  
 19 applies to the small claims court established under ~~IC 33-34~~.  
 20 **IC 33-34.1.**

21 (b) The person who is designated by a judge of the court to prepare  
 22 transcripts may collect a fee of not more than five dollars (\$5) for each  
 23 transcript from a person who requests the preparation of a transcript.

24 **SECTION 18. An emergency is declared for this act.**

