

SENATE BILL No. 141

DIGEST OF INTRODUCED BILL

Citations Affected: IC 26-2-7-5; IC 33-14-7-20; IC 34-4-30-1.

Synopsis: Collection of dishonored checks. Prohibits a prosecuting attorney or deputy prosecuting attorney from collecting attorney's fees for the collection of a check, draft, or order on a credit institution that is drawn or issued in the county where the person is a prosecuting attorney or deputy prosecuting attorney.

Effective: July 1, 1998.

Kenley

January 6, 1998, read first time and referred to Committee on Judiciary.



Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

SENATE BILL No. 141

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 26-2-7-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1998]: Sec. 5. A person liable under section 4
3 of this chapter is also liable for all of the following:
4 (1) Interest at the rate of eighteen percent (18%) per annum on the
5 face amount of the check from the date of the check's execution
6 until payment is made in full.
7 (2) Court costs incurred in prosecuting an action that may be
8 brought by the holder to collect on the check.
9 (3) **Subject to IC 33-14-7-20(c)**, reasonable attorney's fees
10 incurred by the holder if the responsibility for collection is
11 referred to an attorney who is not a salaried employee of the
12 holder. If legal action is filed to effect collection and the
13 collection on the check is referred to an attorney who is not a
14 salaried employee of the holder **or an attorney who is a**
15 **prosecuting attorney or deputy prosecuting attorney in the**
16 **county where the action may be brought**, the holder of the
17 check is entitled to minimum attorney's fees of not less than one

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1 hundred dollars (\$100).

2 (4) Actual travel expenses not otherwise reimbursed under
3 subdivisions (1) through (3) and incurred by the holder to do
4 either of the following:

5 (A) Have the holder or an employee or agent of the holder file
6 papers and attend court proceedings related to the recovery of
7 a judgment under this chapter.

8 (B) Provide witnesses to testify in court proceedings related to
9 the recovery of a judgment under this chapter.

10 (5) A reasonable amount to compensate the holder for time used
11 to do either of the following:

12 (A) File papers and attend court proceedings related to the
13 recovery of a judgment under this chapter.

14 (B) Travel to and from activities described in clause (A).

15 (6) Actual direct and indirect expenses incurred by the holder to
16 compensate employees and agents for time used to do either of
17 the following:

18 (A) File papers and attend court proceedings related to the
19 recovery of a judgment under this section.

20 (B) Travel to and from activities described in clause (A).

21 (7) All other reasonable costs of collection.

22 SECTION 2. IC 33-14-7-20 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20. (a) The
24 compensation provided in this chapter for the various prosecuting
25 attorneys and their deputies shall be in full for all services required by
26 law. The various prosecuting attorneys shall appear in all courts and in
27 all cases where the law provides that they shall appear.

28 (b) In all judicial circuits the prosecuting attorney, deputy
29 prosecuting attorneys, and investigators shall be allowed, for the miles
30 necessarily traveled in the discharge of their duty, a sum for mileage
31 equal to that sum per mile paid to state officers and employees, with
32 the rate changing each time the state government changes its rate per
33 mile, said mileage to be allowed by the board of county commissioners
34 on a claim duly filed monthly by the prosecutor, deputy prosecuting
35 attorneys, and investigators itemizing the specific mileage traveled.
36 The mileage of the prosecuting attorneys shall be paid by the county in
37 which the duty arose which necessitated the travel. Nothing contained
38 in this chapter shall prevent the payment of other expenses as may be
39 allowed by law. In the event any board of county commissioners does
40 not furnish the prosecuting attorney with office space the county
41 council shall appropriate a reasonable amount of money per year to the
42 prosecuting attorney for office space.



1 (c) Other than the compensation provided in this chapter, an
 2 attorney who is a prosecuting attorney or deputy prosecuting
 3 attorney may not collect a fee or other compensation for services
 4 related to the collection of a check, draft, or order on a credit
 5 institution (as defined in IC 35-41-1-5) that has not been paid or
 6 honored if a person issued or delivered the check in the county
 7 where the attorney is a prosecuting attorney or deputy prosecuting
 8 attorney.

9 SECTION 3. IC 34-4-30-1 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. If a person suffers a
 11 pecuniary loss as a result of a violation of IC 35-43, IC 35-42-3-3,
 12 IC 35-42-3-4, or IC 35-45-9, the person may bring a civil action against
 13 the person who caused the loss for the following:

14 (1) An amount not to exceed three (3) times the person's actual
 15 damages.

16 (2) The costs of the action.

17 (3) **Subject to IC 33-14-7-20(c)**, a reasonable attorney's fee.

18 (4) Actual travel expenses that are not otherwise reimbursed
 19 under subdivisions (1) through (3) and are incurred by the person
 20 suffering loss to:

21 (A) have the person suffering loss or an employee or agent of
 22 that person file papers and attend court proceedings related to
 23 the recovery of a judgment under this chapter; or

24 (B) provide witnesses to testify in court proceedings related to
 25 the recovery of a judgment under this chapter.

26 (5) A reasonable amount to compensate the person suffering loss
 27 for time used to:

28 (A) file papers and attend court proceedings related to the
 29 recovery of a judgment under this chapter; or

30 (B) travel to and from activities described in clause (A).

31 (6) Actual direct and indirect expenses incurred by the person
 32 suffering loss to compensate employees and agents for time used
 33 to:

34 (A) file papers and attend court proceedings related to the
 35 recovery of a judgment under this chapter; or

36 (B) travel to and from activities described in clause (A).

37 (7) All other reasonable costs of collection.

38 SECTION 4. [EFFECTIVE JULY 1, 1998] **IC 26-2-7-5,**
 39 **IC 33-14-7-20, and IC 34-4-30-1, all as amended by this act, apply**
 40 **only to attorney's fees paid after June 30, 1998.**

