

SENATE BILL No. 325

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-58.5; IC 31-16-14.5; IC 33-17-1-4; IC 33-19-1-3; IC 33-19-6-5.

Synopsis: Limited liability for clerks. Requires the division of family and children to establish the Indiana support enforcement tracking system (ISETS) to provide for a statewide centralized automated system for the collection, distribution, and disbursement of child support payments. Enumerates the purposes of the ISETS procedures and technologies. Grants immunity to a clerk of the circuit court for errors in the disbursement of child support funds that: (1) arise without the clerk's knowledge or approval; and (2) result from an action by the ISETS staff or an ISETS technological error. Makes conforming amendments. (The introduced version of this bill was prepared by the centralized system study committee.)

Effective: July 1, 1998.

Bray, Ford, Bowser, Breaux

January 8, 1998, read first time and referred to Committee on Judiciary.

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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.

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SENATE BILL No. 325



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 31-9-2-58.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 1998]: **Sec. 58.5. "Indiana support enforcement tracking system**
- 4 **(ISETS)", for purposes of IC 31-16-14.5, refers to the statewide**
- 5 **automated system for the collection, disbursement, and**
- 6 **distribution of child support payments established by**
- 7 **IC 31-16-14.5-2.**
- 8 SECTION 2. IC 31-16-14.5 IS ADDED TO THE INDIANA CODE
- 9 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 1998]:
- 11 **Chapter 14.5. Indiana Support Enforcement Tracking System**
- 12 **Sec. 1. This chapter applies to child support collection,**
- 13 **distribution, and disbursement in the following actions:**
- 14 (1) **Paternity.**
- 15 (2) **Legal separation.**
- 16 (3) **Dissolution of marriage.**
- 17 **Sec. 2. The division of family and children shall establish the**



1 **Indiana support enforcement tracking system (ISETS) to provide**
 2 **for a statewide automated system for the collection, distribution,**
 3 **and disbursement of child support payments in accordance with**
 4 **federal law.**

5 **Sec. 3. The division of family and children shall operate ISETS**
 6 **from one (1) centralized location at the state level unless the**
 7 **Secretary of the United States Department of Health and Human**
 8 **Services grants a waiver to establish ISETS by linking local**
 9 **disbursement units through an automated centralized information**
 10 **network.**

11 **Sec. 4. The division shall establish ISETS procedures and**
 12 **technologies for the following purposes:**

13 **(1) Receipt, distribution, and disbursement of all child**
 14 **support payments.**

15 **(2) Prompt disbursement of a custodial parent's share of any**
 16 **child support payment.**

17 **(3) The accurate identification of child support payments.**

18 **(4) The ability to furnish to a parent, upon request, prompt**
 19 **information on the current status of payments relating to a**
 20 **child support order for the parent's child.**

21 **(5) Receipt of child support payments from a parent or an**
 22 **employer in another state.**

23 **(6) Disbursement of child support payments to a custodial**
 24 **parent or any other obligee in another state.**

25 **(7) Maintain child support and paternity case history and**
 26 **financial information and schedule appointments and**
 27 **hearings regarding child support.**

28 **(8) Locate an absentee parent in order to collect child support**
 29 **payments.**

30 **(9) Identify cases as incoming interstate, outgoing interstate,**
 31 **or intrastate child support cases.**

32 **SECTION 3. IC 33-17-1-4, AS AMENDED BY P.L.284-1995,**
 33 **SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 34 **JULY 1, 1998]: Sec. 4. (a) As used in this section, "Indiana support**
 35 **enforcement tracking system (ISETS)" refers to the statewide**
 36 **automated system for the collection, disbursement, and**
 37 **distribution of child support payments established under**
 38 **IC 31-16-14.5-2.**

39 ~~(a)~~ **(b)** The clerk may receive funds:

40 **(1) in payment of judgments; and**

41 **(2) ordered to be paid into the court by the judge.**

42 ~~(b)~~ **(c)** Except as provided in subsection ~~(c)~~; **(d)**, the clerk is liable,

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1 with his sureties, on his official bond for all funds received to any
2 person who is entitled to demand and receive those funds from him.

3 ~~(c)~~ **(d)** The clerk is not personally liable or liable in the clerk's
4 official capacity on the clerk's official bond for funds received if the
5 clerk:

6 (1) through error or in accordance with the best information
7 available to the clerk, disbursed the funds to a person the clerk
8 reasonably believed to be entitled to receive the funds and to
9 comply with a:

10 (A) child support order; or

11 (B) garnishment order;

12 **(2) inappropriately disbursed or misapplied child support**
13 **funds, arising without the knowledge or approval of the clerk,**
14 **that resulted from:**

15 **(A) an action by the ISETS staff; or**

16 **(B) an ISETS technological error;**

17 ~~(2)~~ **(3)** disbursed funds that the clerk reasonably believed were
18 available for disbursement but that were not actually available for
19 disbursement;

20 ~~(3)~~ **(4)** disbursed child support funds paid to the clerk by a
21 personal check that was later dishonored by a financial institution;
22 and

23 ~~(4)~~ **(5)** did not commit a criminal offense as a part of the
24 disbursement.

25 ~~(d)~~ **(e)** If the clerk improperly disburses funds in the manner
26 described by subsection ~~(c)~~; **(d)**, the clerk shall do the following:

27 (1) Deduct an amount equal to the amount of funds improperly
28 disbursed from fees collected under IC 33-19-6-5.

29 (2) Credit each account from which funds were improperly
30 disbursed with the amount of funds improperly disbursed under
31 subsection ~~(c)~~; **(d)**.

32 (3) Notify the prosecuting attorney of the county of:

33 (A) the amount of the improper disbursement;

34 (B) the person from whom the amount of the improper
35 disbursement should be collected; and

36 (C) any other information to assist the prosecuting attorney to
37 collect the amount of the improper disbursement.

38 (4) Record each action taken under this subsection on a form
39 prescribed by the state board of accounts.

40 ~~(e)~~ **(f)** If:

41 (1) fees collected under IC 33-19-6-5 are credited to an account
42 under subsection ~~(d)~~~~(2)~~ **(e)****(2)** because a check or money order

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1 was dishonored by a financial institution or was the subject of a
2 stop payment order; and

3 (2) a person subsequently pays to the clerk all or part of the
4 amount of the check or money order that was dishonored or the
5 subject of a stop payment order;

6 the clerk shall reimburse the account containing fees collected under
7 IC 33-19-6-5 using the amount the person paid to the clerk.

8 SECTION 4. IC 33-19-1-3, AS AMENDED BY P.L.4-1994,
9 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 1998]: Sec. 3. (a) Except for the state share prescribed by
11 IC 33-19-7-1 for semiannual distribution, and as provided under
12 ~~IC 33-17-1-4(d)~~ **IC 33-17-1-4(e)** and IC 33-19-6-1.5, within thirty (30)
13 days after the clerk collects a fee, the clerk shall forward the fee to:

14 (1) the county auditor, if the clerk is a clerk of a circuit court; or

15 (2) the city or town fiscal officer, if the clerk is the clerk of a city
16 or town court.

17 (b) If part of the fee is collected on behalf of another person for
18 service as a juror or witness, the county auditor or city or town fiscal
19 officer shall forward that part of the fee to the person within forty-five
20 (45) days after the auditor or fiscal officer receives the claim for the
21 fee.

22 (c) Except for amounts deposited in a user fee fund established
23 under IC 33-19-8, the county auditor shall distribute fees received from
24 the clerk to:

25 (1) the county treasurer for deposit in the county general fund, if
26 the fee belongs to the county; and

27 (2) the fiscal officer of a city or town, if the fee belongs to the city
28 or town under IC 33-19-7-3.

29 (d) Except for amounts deposited in a user fee fund established
30 under IC 33-19-8, the city or town fiscal officer shall deposit all fees
31 received from a clerk in the treasury of the city or town.

32 (e) The clerk shall forward the state share of each fee to the state
33 treasury at the clerk's semiannual settlement for state revenue.

34 SECTION 5. IC 33-19-6-5 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) This section
36 applies to an action in which a final court order requires a person to pay
37 support or maintenance payments through the clerk.

38 (b) The clerk shall collect a fee in addition to support and
39 maintenance payments. The fee is:

40 (1) twenty dollars (\$20) for the calendar year in which the initial
41 order is entered, unless the first payment is due after June 30 of
42 that calendar year;

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1 (2) ten dollars (\$10) for the calendar year in which the initial
 2 order was entered, if the first payment is due after June 30 of that
 3 calendar year; and
 4 (3) in each subsequent year in which the initial order or a
 5 modified order is in effect, twenty dollars (\$20) if the fee is paid
 6 before February 1, or thirty dollars (\$30) if paid after January 31.
 7 (c) The fee required under subsection (b) is due at the time that the
 8 first support or maintenance payment for the calendar year in which the
 9 fee must be paid is due.
 10 (d) The clerk may not deduct the fee from a support or maintenance
 11 payment.
 12 (e) Except as provided under ~~IC 33-17-1-4(d)~~, **IC 33-17-1-4(e)**, the
 13 clerk shall forward the fee collected under this section to the county
 14 auditor in accordance with IC 33-19-1-3(a).

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