February 20, 2002

# ENGROSSED
# HOUSE BILL No. 1077

DIGEST OF HB 1077 (Updated February 18, 2002 7:40 PM - DI 105)

**Citations Affected:** IC 31-16; IC 33-19; noncode.

**Synopsis:** Child support arrearage. Provides that a court may issue an order directing a person to pay a child support arrearage. Provides that the order is enforceable by contempt or any other remedy available for the enforcement of a child support decree. Provides that the county shall forward certain Title IV-D child support payments to FSSA.

**Effective:** Upon passage.


## Ayres, Sturtz, Kuzman, Foley

(SENATE SPONSORS — BRAY, ALEXA)



January 8, 2002, read first time and referred to Committee on Judiciary.
January 30, 2002, amended, reported — Do Pass.
February 4, 2002, read second time, amended, ordered engrossed.
February 5, 2002, engrossed. Read third time, passed. Yeas 92, nays 2.

SENATE ACTION

February 11, 2002, read first time and referred to Committee on Judiciary.
February 19, 2002, reported favorably — Do Pass.



C o p y

February 20, 2002

Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

C o p y

# ENGROSSED HOUSE BILL No. 1077

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-16-12-1, AS AMENDED BY P.L.123-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Notwithstanding any other law, all orders and awards contained in a child support decree **or an order directing a person to pay a child support arrearage** may be enforced by:

(1) contempt, including the provisions under section 6 of this chapter;

(2) assignment of wages or other income; or

(3) any other remedies available for the enforcement of a court order;

except as otherwise provided by IC 31-16-2 through IC 31-16-11 or this chapter.

SECTION 2. IC 31-16-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** The obligation of a person to pay child support arrearages does not terminate when the person's duty to support a child ceases under IC 31-16-6-6 (or IC 31-1-11.5-12(e) before its repeal). The statutes

applicable to the collection of child support obligations are applicable to the collection of child support arrearages described in this section.

**(b) The court, upon request of a person or an agency entitled to receive child support payments, may issue an order that contains any of the following:**

**(1) A determination of the amount of child support arrearage due to a person or an agency entitled to receive child support payments.**

**(2) An order directing a person to pay the child support arrearage.**

**(3) The schedule and other terms on which a person is to pay a child support arrearage.**

**(4) Any other provision that the court determines to be appropriate.**

**An order issued under this subsection is enforceable to the same extent as an order or award in a child support decree.**

SECTION 3. IC 33-19-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except for the state share prescribed by IC 33-19-7-1 for semiannual distribution, and as provided under IC 33-17-1-4(e), **IC 33-19-7-1(g),** and IC 33-19-6-1.5, within thirty (30) days after the clerk collects a fee, the clerk shall forward the fee to:

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

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

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

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

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

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

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

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

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SECTION 4. IC 33-19-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk.

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

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

(2) ten dollars ($10) for the calendar year in which the initial order was entered, if the first payment is due after June 30 of that calendar year; and

(3) in each subsequent year in which the initial order or a modified order is in effect, twenty dollars ($20) if the fee is paid before February 1, or thirty dollars ($30) if paid after January 31.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or maintenance payment.

(e) Except as provided under IC 33-17-1-4(e) **and IC 33-19-7-1(g),** the clerk shall forward the fee collected under this section to the county auditor in accordance with IC 33-19-1-3(a).

SECTION 5. IC 33-19-7-1, AS AMENDED BY P.L.183-2001, SECTION 13, AND AS AMENDED BY P.L.280-2001, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-3(a) (juvenile costs fees).

(4) IC 33-19-5-4(a) (civil costs fees).

(5) IC 33-19-5-5(a) (small claims costs fees).

(6) IC 33-19-5-6(a) (probate costs fees).

(7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under

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IC 33-19-5-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(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 monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). 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 semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee.~~

~~(f)~~ **(e)** The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the county general fund.

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(2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the county general fund.

~~(g)~~ **(f)** The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established under IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-19-6-21.

**(g) The clerk of a circuit court shall monthly distribute 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 33-19-6-5.**

**(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-19-6-5 that is reimbursable to the county at the federal financial participation rate.**

**The county clerk shall monthly distribute 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 33-19-6-5 that is not reimbursable to the county at the applicable federal financial participation rate.**

SECTION 6. [EFFECTIVE UPON PASSAGE] **It is the intent of the general assembly to make contempt and all other remedies for the enforcement of a child support order available to assist in the enforcement of a child support order regardless of whether the child for whom the child support was ordered is emancipated. For this purpose, the general assembly is establishing a procedure for the enforcement of a child support arrearage through an order directing a person to pay a child support arrearage. IC 31-16-12-1 and IC 31-16-12-3, both as amended by this act, apply to a child support arrearage that exists after the effective date of this SECTION regardless of when the arrearage accrued.**

SECTION 7. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1077, 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 2, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 2. IC 33-19-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except for the state share prescribed by IC 33-19-7-1 for semiannual distribution, and as provided under IC 33-17-1-4(e), **IC 33-19-7-1(g),** and IC 33-19-6-1.5, within thirty (30) days after the clerk collects a fee, the clerk shall forward the fee to:

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

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

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

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

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

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

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

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

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(2) ten dollars ($10) for the calendar year in which the initial

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order was entered, if the first payment is due after June 30 of that calendar year; and

(3) in each subsequent year in which the initial order or a modified order is in effect, twenty dollars ($20) if the fee is paid before February 1, or thirty dollars ($30) if paid after January 31.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or maintenance payment.

(e) Except as provided under IC 33-17-1-4(e) **and IC 33-19-7-1(g),** the clerk shall forward the fee collected under this section to the county auditor in accordance with IC 33-19-1-3(a).

SECTION 4. IC 33-19-7-1, AS AMENDED BY P.L.183-2001, SECTION 13, AND AS AMENDED BY P.L.280-2001, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

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(6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

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~~(e) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee.~~

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(2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the county general fund.

~~(g)~~ **(f)** The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established under IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-19-6-21.

**(g) The clerk of a circuit court shall monthly distribute to the county auditor the following:**



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**(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 33-19-6-5.**

**(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-19-6-5 that is not reimbursable to the county at the federal financial participation rate.**

**The county clerk shall monthly distribute 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 33-19-6-5 that is reimbursable to the county at the applicable federal financial participation rate.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1077 as introduced.)

STURTZ, Chair

Committee Vote: yeas 9, nays 1.

C o p y

HOUSE MOTION

Mr. Speaker: I move that House Bill 1077 be amended to read as follows:

Page 5, line 17, delete "not".

Page 5, line 22, after "that is" insert "**not**".

(Reference is to HB 1077 as printed January 31, 2002.)

KUZMAN

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 1077, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1077 as reprinted February 5, 2002.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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