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# HOUSE BILL No. 1437

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-30.5.

**Synopsis:** Ordinance violation courts. Permits a city, town, or county (unit) to establish an ordinance violation court to adjudicate ordinance or code violations committed within the unit. Establishes the powers and duties of the court, and provides that the only court fee that may be collected by the ordinance violation court is an ordinance violation fee, which may not exceed \$100. Specifies that the fee must be deposited in the general fund of the unit.

**Effective:** July 1, 2011.

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### Borders

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January 18, 2011, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## HOUSE BILL No. 1437



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 33-30.5 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2011]:

### **ARTICLE 30.5. ORDINANCE VIOLATION COURTS**

#### **Chapter 1. Definitions**

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

7 (1) "Cross jurisdictional agreement" means an agreement  
8 between the legislative bodies of two (2) or more units that  
9 permits an ordinance violation committed within the borders  
10 of one (1) unit to be tried in the ordinance violation court of  
11 another unit.

12 (2) "Ordinance violation" includes a code violation.

13 (3) "Unit" means a city, town, or county. The term does not  
14 include a township.

#### **Chapter 2. General Provisions**

15 **Sec. 1. A unit may create an ordinance violation court by**  
16 **adopting a resolution that complies with this article.**  
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1           **Sec. 2. An ordinance violation court shall comply with all**  
2 **requests made under IC 33-24-6-3 by the executive director of the**  
3 **division of state court administration concerning the ordinance**  
4 **violation court.**

5           **Chapter 3. Jurisdiction**

6           **Sec. 1. An ordinance violation court has jurisdiction only over**  
7 **code and ordinance violations.**

8           **Sec. 2. Unless the court is party to a cross-jurisdictional**  
9 **agreement, an ordinance violation court has jurisdiction only over**  
10 **a code or ordinance violation that is committed within the borders**  
11 **of the unit that established the ordinance violation court.**

12           **Chapter 4. Fees and Costs**

13           **Sec. 1. Except as provided in section 2 of this chapter, and**  
14 **notwithstanding any other law, an ordinance violation court may**  
15 **not collect a court fee.**

16           **Sec. 2. (a) An ordinance violation court may collect an**  
17 **ordinance violation fee from a person found to have committed an**  
18 **ordinance violation in a proceeding before the court. If the person**  
19 **is found to have committed multiple ordinance violations in one (1)**  
20 **proceeding, the court may collect only one (1) ordinance violation**  
21 **fee.**

22           **(b) The amount of an ordinance violation fee must be**  
23 **established by the legislative body of the unit, but may not be more**  
24 **than one hundred dollars (\$100).**

25           **(c) An ordinance violation fee shall be deposited in the general**  
26 **fund of the unit that established the ordinance violation court.**

27           **Sec. 3. An ordinance violation fee is a cost and is a part of and**  
28 **in addition to the judgment. Notwithstanding any other law, a**  
29 **person found by an ordinance violation court to have violated an**  
30 **ordinance is not liable for any costs other than the ordinance**  
31 **violation fee.**

32           **Chapter 5. Judge**

33           **Sec. 1. The legislative body of the unit shall establish the**  
34 **qualifications and fix the compensation of the judge of the**  
35 **ordinance violation court.**

36           **Sec. 2. The executive body of the unit shall appoint the judge of**  
37 **the ordinance violation court, subject to confirmation by a**  
38 **majority of the legislative body of the unit.**

39           **Sec. 3. The judge shall serve a one (1) year term and may be**  
40 **reappointed.**

41           **Sec. 4. During the judge's one (1) year term, the judge may be**  
42 **removed only for cause by a majority vote of the legislative body**

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of the unit.

**Sec. 5. (a) A judge of an ordinance violation court may adopt rules for conducting the business of the court that do not conflict with policies adopted by the legislative body of the unit.**

**(b) The judge of the ordinance violation court may do the following:**

- (1) Perform marriages.**
- (2) Issue warrants.**
- (3) Issue and direct a process necessary in exercising the court's jurisdiction.**
- (4) Make proper judgments, decrees, and orders.**
- (5) Issue process.**
- (6) Perform acts necessary and proper to carry out this article.**

**(c) The judge of the ordinance violation court has the same power as the judge of a circuit court concerning the following:**

- (1) The attendance of witnesses.**
- (2) The punishment of contempt and the enforcement of the judge's orders.**
- (3) The administration of oaths.**
- (4) The issuance of necessary certificates for the authentication of the records and proceedings of the court.**

**Chapter 6. Court Powers and Procedure**

**Sec. 1. (a) An ordinance violation court is not a court of record.**

**(b) All appeals from judgments of the ordinance violation court must be taken to the circuit or superior court of the county and tried de novo.**

**(b) An appeal from a judgment of an ordinance violation court may be taken to the superior or circuit court of the county not later than thirty (30) days after the date of judgment.**

**(c) The rules of procedure for an appeal from a judgment of an ordinance violation court must be in accordance with the rules established by the circuit or superior court.**

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

**Sec. 2. (a) The name of the ordinance violation court is "The Ordinance Violation Court of \_\_\_\_\_," according to the name of the unit.**

**(b) The judge shall procure a seal that will stamp upon paper a distinct impression of words and letters. The seal must contain the words "The Ordinance Violation Court of \_\_\_\_\_,"**

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according to the name of the unit.

**Sec. 3.** An ordinance violation court shall hold sessions as the business of the court demands at a place to be provided and designated by the legislative body of the unit.

**Sec. 4.** A judge of an ordinance violation court shall provide, at the expense of the unit, all books, dockets, papers, and printed blanks necessary for the discharge of the duties of the court.

**Sec. 5. (a)** A defendant in a proceeding filed in an ordinance violation court waives the right to trial by jury unless the defendant, not later than ten (10) days following service of the complaint in an ordinance violation case, demands a trial by jury by filing an affidavit that:

- (1) states that there are questions of fact requiring a trial by jury;
- (2) specifies those questions of fact; and
- (3) states that the demand is in good faith.

**(b)** Notice of the defendant's right to a jury trial, and the ten (10) day period in which to file for a jury trial, must be clearly stated on the complaint or on an additional sheet to be served with the notice of complaint on the defendant.

**(c)** Upon the deposit of seventy dollars (\$70) in the ordinance violation court docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim loses its status as an ordinance violation case.

**Sec. 6.** The ordinance violation court shall take judicial notice of municipal, city, and town ordinances.

**Sec. 7.** A change of venue may not be taken from an ordinance violation court. However, a defendant may take a change of venue from the judge of the court, with a special judge appointed as provided for the circuit court.

**Chapter 7. Court Officers**

**Sec. 1. (a)** The officers of an ordinance violation court are a:

- (1) judge;
- (2) clerk; and
- (3) bailiff.

**(b)** The judge may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If approved by the legislative body of a town or city, the judge may appoint the city or town clerk or clerk-treasurer as clerk of the ordinance violation court.

**(c)** The clerk and bailiff may not receive any fees or compensation other than their salaries.

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**Sec. 2. The judge and the legislative body of the unit shall determine the duties of the clerk.**

**Sec. 3. (a) The bailiff of an ordinance violation court must be a law enforcement officer assigned to the ordinance violation court in a manner determined by the legislative body of the unit.**

**(b) The bailiff shall do the following:**

**(1) Be present at the sessions of the court, maintaining order and performing all other duties subject to the order of the court.**

**(2) Take charge of all executions issued by the court and see to the collection of the executions.**

**(3) Keep, in books to be furnished by the controller or clerk-treasurer, an accurate account and docket of all executions that come into the bailiff's hands, showing the:**

**(A) names of the defendants;**

**(B) date and number of the execution;**

**(C) amount of fines, fees, or penalties imposed; and**

**(D) disposition of the execution.**

**(4) Make and deliver a written report to the clerk of the court on Tuesday of each week, showing all money collected by the bailiff during the previous week, giving the:**

**(A) names of the defendants;**

**(B) number of executions; and**

**(C) amount of fines, fees, or penalties collected;**

**and pay the money to the clerk, taking the clerk's receipt for the payments.**

**(c) The salary of the bailiff shall be fixed as salaries of other police officers are fixed.**

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