

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 249 be amended to read as follows:

- 1 Page 1, line 11, delete "automated" and insert "**case management**".
- 2 Page 1, line 11, after "system" insert "**, as defined by**
- 3 **IC 33-37-1-2,**".
- 4 Page 2, after line 8, begin a new paragraph and insert:
- 5 "SECTION 2. IC 33-24-6-3, AS AMENDED BY P.L.1-2010,
- 6 SECTION 132, IS AMENDED TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The division of state court
- 8 administration shall do the following:
- 9 (1) Examine the administrative and business methods and systems
- 10 employed in the offices of the clerks of court and other offices
- 11 related to and serving the courts and make recommendations for
- 12 necessary improvement.
- 13 (2) Collect and compile statistical data and other information on
- 14 the judicial work of the courts in Indiana. All justices of the
- 15 supreme court, judges of the court of appeals, judges of all trial
- 16 courts, and any city or town courts, whether having general or
- 17 special jurisdiction, court clerks, court reporters, and other
- 18 officers and employees of the courts shall, upon notice by the
- 19 executive director and in compliance with procedures prescribed
- 20 by the executive director, furnish the executive director the
- 21 information as is requested concerning the nature and volume of
- 22 judicial business. The information must include the following:
- 23 (A) The volume, condition, and type of business conducted by
- 24 the courts.

- 1 (B) The methods of procedure in the courts.
 2 (C) The work accomplished by the courts.
 3 (D) The receipt and expenditure of public money by and for
 4 the operation of the courts.
 5 (E) The methods of disposition or termination of cases.
 6 (3) Prepare and publish reports, not less than one (1) or more than
 7 two (2) times per year, on the nature and volume of judicial work
 8 performed by the courts as determined by the information
 9 required in subdivision (2).
 10 (4) Serve the judicial nominating commission and the judicial
 11 qualifications commission in the performance by the commissions
 12 of their statutory and constitutional functions.
 13 (5) Administer the civil legal aid fund as required by IC 33-24-12.
 14 (6) Administer the judicial technology and automation project
 15 fund established by section 12 of this chapter.
 16 (7) Develop a standard protocol for the exchange of information,
 17 by not later than December 31, 2009:
 18 (A) between the protective order registry, established by
 19 IC 5-2-9-5.5, and county court case management systems;
 20 (B) at the option of the county prosecuting attorney, for:
 21 (i) a prosecuting attorney's case management system;
 22 (ii) a county court case management system; and
 23 (iii) a county court case management system developed and
 24 operated by the division of state court administration;
 25 to interface with the electronic traffic tickets, as defined by
 26 IC 9-30-3-2.5; and
 27 (C) between county court case management systems and the
 28 case management system developed and operated by the
 29 division of state court administration.
 30 (8) Establish and administer an electronic system for receiving
 31 information that relates to certain individuals who may be
 32 prohibited from possessing a firearm and transmitting this
 33 information to the Federal Bureau of Investigation for inclusion
 34 in the NICS.
 35 (b) All forms to be used in gathering data must be approved by the
 36 supreme court and shall be distributed to all judges and clerks before
 37 the start of each period for which reports are required.
 38 (c) **Except as provided in subsection (d),** the division may adopt
 39 rules to implement this section.
 40 **(d) The division shall adopt rules:**
 41 **(1) that must:**
 42 **(A) implement subsection (a)(6);**
 43 **(B) foster a competitive marketplace for multiple vendors**
 44 **of case management services; and**
 45 **(C) treat all vendors of case management services equally;**
 46 **and**

1 **(2) that must allow case management systems that are paid**
 2 **for in whole or in part by a fee described in IC 33-37-5-21 to**
 3 **provide for:**

4 **(A) public access for all public court records electronically;**

5 **(B) prosecuting attorneys to file criminal cases with county**
 6 **clerks electronically; and**

7 **(C) civil cases to be filed electronically with county clerks.**

8 **The rules described in subdivision (2) must be adopted before**
 9 **January 1, 2013.**

10 **(e) The rules described in subdivision (2)(B) and (2)(C) must**
 11 **incorporate the legal XML e-filing standard.**

12 SECTION 3. IC 33-32-3-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The clerk shall
 14 endorse the time of filing on each writing required to be filed in the
 15 office of the clerk.

16 (b) The clerk shall carefully preserve in the office of the clerk all
 17 records and writings pertaining to the clerk's official duties.

18 **(c) The clerk is the official custodian of all records and writings**
 19 **of the court, including electronic records and writings. The clerk**
 20 **shall provide copies of any public records in the clerk's possession**
 21 **to any person who requests the public records. Court records are**
 22 **subject to IC 5-14-3-3 and IC 5-14-3-4.**

23 ~~(c)~~ **(d)** The clerk shall procure, at the expense of the county, all
 24 necessary judges' appearance, bar, judgment, and execution dockets,
 25 order books, and final record books.

26 ~~(d)~~ **(e)** The clerk shall:

27 (1) attend, in person or by deputy, the circuit court of the county;

28 and

29 (2) enter in proper record books all orders, judgments, and
 30 decrees of the court.

31 ~~(e)~~ **(f)** Not more than fifteen (15) days after the cases are finally
 32 determined, the clerk shall enter in final record books a complete
 33 record of:

34 (1) all cases involving the title to land;

35 (2) all criminal cases in which the punishment is death or
 36 imprisonment, except where a nolle prosequi is entered or an
 37 acquittal is had; and

38 (3) all other cases, at the request of either party and upon payment
 39 of the costs.

40 SECTION 4. IC 33-37-1-2 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. **(a) As used in this**
 42 **article, "case management system":**

43 **(1) means a computer network used by courts and clerks of**
 44 **court to store, process, and transmit court records; and**

45 **(2) includes programs to produce financial records and**
 46 **produce financial reports.**

1 (b) As used in this article, "clerk" refers to any of the following:

- 2 (1) A clerk of a circuit court under IC 33-32-2-1.
 3 (2) The clerk of a city or town court under IC 33-35.
 4 (3) The judge of a city or town court that does not have a clerk.

5 SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.229-2011,
 6 SECTION 260, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The clerk of a circuit court
 8 shall 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) Fifty percent (50%) of the child abuse prevention fees
 34 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) **Except as provided in subdivision (8),** the following:

- 42 (A) For a county operating ~~under the state's automated judicial~~
 43 ~~system,~~ **a case management system provided under**
 44 **contract by the judicial technology and automation**
 45 **committee or the division of state court administration,** one
 46 hundred percent (100%) of the automated record keeping fee

- 1 (IC 33-37-5-21) not distributed under subsection (a).
 2 (B) **Before July 1, 2013**, for a county not operating ~~under the~~
 3 ~~state's automated judicial system~~, **a case management system**
 4 **provided under contract by the judicial technology and**
 5 **automation committee or the division of state court**
 6 **administration**, eighty percent (80%) of the automated record
 7 keeping fee (IC 33-37-5-21) not distributed under subsection
 8 (a).
 9 (C) **After June 30, 2013**, for a county not operating a case
 10 **management system provided under contract by the**
 11 **judicial technology and automation committee or the**
 12 **division of state court administration**, **twenty percent**
 13 **(20%) of the automated record keeping fee (IC 33-37-5-21)**
 14 **not distributed under subsection (a).**
- 15 (8) **If more than one (1) case management system is used in a**
 16 **county, the following:**
- 17 (A) **Before July 1, 2013**, **eighty percent (80%) of the**
 18 **automated record keeping fee (IC 33-37-5-21):**
- 19 (i) **generated by a court not operating a case**
 20 **management system provided under contract by the**
 21 **judicial technology and automation committee or the**
 22 **division of state court administration; and**
 23 (ii) **not distributed under subsection (a).**
- 24 (B) **After June 30, 2013**, **twenty percent (20%) of the**
 25 **automated record keeping fee (IC 33-37-5-21):**
- 26 (i) **generated by a court not operating a case**
 27 **management system provided under contract by the**
 28 **judicial technology and automation committee or the**
 29 **division of state court administration; and**
 30 (ii) **not distributed under subsection (a).**
- 31 (c) The clerk of a circuit court shall distribute monthly to the county
 32 auditor the following:
- 33 (1) **Seventy-five percent (75%) of the drug abuse, prosecution,**
 34 **interdiction, and correction fees collected under**
 35 **IC 33-37-4-1(b)(5).**
- 36 (2) **Seventy-five percent (75%) of the alcohol and drug**
 37 **countermeasures fees collected under IC 33-37-4-1(b)(6),**
 38 **IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).**
- 39 The county auditor shall deposit fees distributed by a clerk under this
 40 subsection into the county drug free community fund established under
 41 IC 5-2-11.
- 42 (d) The clerk of a circuit court shall distribute monthly to the county
 43 auditor fifty percent (50%) of the child abuse prevention fees collected
 44 under IC 33-37-4-1(b)(7). The county auditor shall deposit fees
 45 distributed by a clerk under this subsection into the county child
 46 advocacy fund established under IC 12-17-17.

1 (e) The clerk of a circuit court shall distribute monthly to the county
2 auditor one hundred percent (100%) of the late payment fees collected
3 under IC 33-37-5-22. The county auditor shall deposit fees distributed
4 by a clerk under this subsection as follows:

5 (1) If directed to do so by an ordinance adopted by the county
6 fiscal body, the county auditor shall deposit forty percent (40%)
7 of the fees in the clerk's record perpetuation fund established
8 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
9 county general fund.

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

13 (f) The clerk of the circuit court shall distribute semiannually to the
14 auditor of state for deposit in the sexual assault victims assistance
15 account established by IC 5-2-6-23(h) one hundred percent (100%) of
16 the sexual assault victims assistance fees collected under
17 IC 33-37-5-23.

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 support and maintenance
21 fees for cases designated as non-Title IV-D child support cases in
22 the Indiana support enforcement tracking system (ISETS)
23 collected under IC 33-37-5-6.

24 (2) The percentage share of the support and maintenance fees for
25 cases designated as IV-D child support cases in ISETS collected
26 under IC 33-37-5-6 that is reimbursable to the county at the
27 federal financial participation rate.

28 The county clerk shall distribute monthly to the office of the secretary
29 of family and social services the percentage share of the support and
30 maintenance fees for cases designated as Title IV-D child support cases
31 in ISETS collected under IC 33-37-5-6 that is not reimbursable to the
32 county at the applicable federal financial participation rate.

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

35 (1) One hundred percent (100%) of the small claims service fee
36 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in
37 the county general fund.

38 (2) One hundred percent (100%) of the small claims garnishee
39 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for
40 deposit in the county general fund.

41 (i) This subsection does not apply to court administration fees
42 collected in small claims actions filed in a court described in IC 33-34.
43 The clerk of a circuit court shall semiannually distribute to the auditor
44 of state for deposit in the state general fund one hundred percent
45 (100%) of the following:

46 (1) The public defense administration fee collected under

- 1 IC 33-37-5-21.2.
- 2 (2) The judicial salaries fees collected under IC 33-37-5-26.
- 3 (3) The DNA sample processing fees collected under
- 4 IC 33-37-5-26.2.
- 5 (4) The court administration fees collected under IC 33-37-5-27.
- 6 (j) The clerk of a circuit court shall semiannually distribute to the
- 7 auditor of state for deposit in the judicial branch insurance adjustment
- 8 account established by IC 33-38-5-8.2 one hundred percent (100%) of
- 9 the judicial insurance adjustment fee collected under IC 33-37-5-25.
- 10 (k) The proceeds of the service fee collected under
- 11 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as
- 12 follows:
- 13 (1) The clerk shall distribute one hundred percent (100%) of the
- 14 service fees collected in a circuit, superior, county, or probate
- 15 court to the county auditor for deposit in the county general fund.
- 16 (2) The clerk shall distribute one hundred percent (100%) of the
- 17 service fees collected in a city or town court to the city or town
- 18 fiscal officer for deposit in the city or town general fund.
- 19 (l) The proceeds of the garnishee service fee collected under
- 20 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
- 21 follows:
- 22 (1) The clerk shall distribute one hundred percent (100%) of the
- 23 garnishee service fees collected in a circuit, superior, county, or
- 24 probate court to the county auditor for deposit in the county
- 25 general fund.
- 26 (2) The clerk shall distribute one hundred percent (100%) of the
- 27 garnishee service fees collected in a city or town court to the city
- 28 or town fiscal officer for deposit in the city or town general fund.
- 29 (m) The clerk of the circuit court shall distribute semiannually to the
- 30 auditor of state for deposit in the home ownership education account
- 31 established by IC 5-20-1-27 one hundred percent (100%) of the
- 32 following:
- 33 (1) The mortgage foreclosure counseling and education fees
- 34 collected under IC 33-37-5-30 (before its expiration on January
- 35 1, 2013).
- 36 (2) Any civil penalties imposed and collected by a court for a
- 37 violation of a court order in a foreclosure action under
- 38 IC 32-30-10.5.
- 39 (n) This subsection applies to a county that is not operating ~~under~~
- 40 ~~the state's automated judicial system~~ **a case management system**
- 41 **provided under contract by the judicial technology and automation**
- 42 **committee or the division of state court administration.** The clerk
- 43 of a circuit court shall distribute monthly to the county auditor:
- 44 **(1) before July 1, 2013, twenty percent (20%); and**
- 45 **(2) after June 30, 2013, eighty percent (80%);**
- 46 of the automated record keeping fee (IC 33-37-5-21) not distributed

1 under subsection (a) for deposit in the clerk's record perpetuation
2 fund."

(Reference is to ESB 249 as printed February 14, 2012.)

Representative Thompson