
SENATE BILL No. 274

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3-19.7; IC 7.1-5; IC 33-37; IC 33-39-1-8.5.

Synopsis: Immunity for certain alcohol offenses. Prohibits a law enforcement officer from taking a person into custody for a crime of public intoxication or minor possession, consumption, or transportation of an alcoholic beverage if the officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that: (1) the officer has contact with the person because the person requested emergency medical assistance, or acted in concert with another person who requested emergency medical assistance, for an individual who reasonably appeared in need of medical assistance due to alcohol consumption; and (2) the person meets other requirements. Provides that a person meeting these conditions is immune from criminal prosecution for public intoxication or minor possession, consumption, or transportation of an alcoholic beverage. Requires a prosecuting attorney to withhold prosecution for public intoxication or minor possession, consumption, or transportation of an alcoholic beverage against a person who: (1) received medical assistance due to alcohol consumption in response to a request for medical assistance by another person; (2) agrees to a pretrial diversion program in which the person, not later than 90 days after the initial hearing, completes an alcohol education program and 20 hours of community service; and (3) has not had two prosecutions previously withheld under the pretrial diversion program. Establishes requirements concerning the pretrial diversion program.

Effective: July 1, 2012.

Merritt

January 4, 2012, read first time and referred to Committee on Judiciary.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 274



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 7.1-1-3-19.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: **Sec. 19.7. "Law enforcement officer",**
4 **for purposes of IC 7.1-5-1-6.5, has the meaning set forth in**
5 **IC 35-41-1-17(a).**

6 SECTION 2. IC 7.1-5-1-3 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. **(a) Subject to**
8 **section 6.5 of this chapter,** it is a Class B misdemeanor for a person
9 to be in a public place or a place of public resort in a state of
10 intoxication caused by the person's use of alcohol or a controlled
11 substance (as defined in IC 35-48-1-9).

12 **(b) A prosecuting attorney shall withhold prosecution against a**
13 **person for an offense under this section if the person meets the**
14 **conditions of the pretrial diversion program established under**
15 **IC 33-39-1-8.5.**

16 SECTION 3. IC 7.1-5-1-6 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. **(a) Subject to**



1 **section 6.5 of this chapter**, it is a Class B misdemeanor for a person
 2 to be, or to become, intoxicated as a result of the person's use of alcohol
 3 or a controlled substance (as defined in IC 35-48-1-9) in or upon a
 4 vehicle commonly used for the public transportation of passengers, or
 5 in or upon a common carrier, or in or about a depot, station, airport,
 6 ticket office, waiting room or platform.

7 **(b) A prosecuting attorney shall withhold prosecution against a**
 8 **person for an offense under this section if the person meets the**
 9 **conditions of the pretrial diversion program established under**
 10 **IC 33-39-1-8.5.**

11 SECTION 4. IC 7.1-5-1-6.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2012]: **Sec. 6.5. (a) A law enforcement officer may not take a**
 14 **person into custody based on the commission of an offense under**
 15 **section 3 or 6 of this chapter or IC 7.1-5-7-7 if the law enforcement**
 16 **officer, after making a reasonable determination and considering**
 17 **the facts and surrounding circumstances, reasonably believes that**
 18 **all of the following apply:**

19 **(1) The law enforcement officer has contact with the person**
 20 **because the person either:**

21 **(A) requested emergency medical assistance; or**

22 **(B) acted in concert with another person who requested**
 23 **emergency medical assistance;**

24 **for an individual who reasonably appeared to be in need of**
 25 **medical assistance due to alcohol consumption.**

26 **(2) The person described in subdivision (1)(A) or (1)(B):**

27 **(A) provided:**

28 **(i) the person's full name; and**

29 **(ii) any other relevant information requested by the law**
 30 **enforcement officer;**

31 **(B) remained at the scene with the individual who**
 32 **reasonably appeared to be in need of medical assistance**
 33 **due to alcohol consumption until emergency medical**
 34 **assistance arrived; and**

35 **(C) cooperated with emergency medical assistance**
 36 **personnel and law enforcement officers at the scene.**

37 **(b) A person described in subsection (a) is immune from**
 38 **criminal prosecution for an offense under:**

39 **(1) section 3 of this chapter;**

40 **(2) section 6 of this chapter; and**

41 **(3) IC 7.1-5-7-7.**

42 SECTION 5. IC 7.1-5-7-7 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) **Subject to**
 2 **IC 7.1-5-1-6.5**, it is a Class C misdemeanor for a minor to knowingly:

- 3 (1) possess an alcoholic beverage;
 4 (2) consume it; or
 5 (3) transport it on a public highway when not accompanied by at
 6 least one (1) of his parents or guardians.

7 (b) If a minor is found to have violated subsection (a) while
 8 operating a motor vehicle, the court may order the minor's driver's
 9 license suspended for up to one (1) year. However, if the minor is less
 10 than eighteen (18) years of age, the court shall order the minor's driver's
 11 license suspended for at least sixty (60) days.

12 (c) The court shall deliver any order suspending the minor's driver's
 13 license under this section to the bureau of motor vehicles, which shall
 14 suspend the minor's driver's license under IC 9-24-18-12 for the period
 15 ordered by the court.

16 **(d) A prosecuting attorney shall withhold prosecution against a**
 17 **person for an offense under this section if the person meets the**
 18 **conditions of the pretrial diversion program established under**
 19 **IC 33-39-1-8.5.**

20 SECTION 6. IC 33-37-4-1, AS AMENDED BY P.L.182-2009(ss),
 21 SECTION 392, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) For each action that results in
 23 a felony conviction under IC 35-50-2 or a misdemeanor conviction
 24 under IC 35-50-3, the clerk shall collect from the defendant a criminal
 25 costs fee of one hundred twenty dollars (\$120).

26 (b) In addition to the criminal costs fee collected under this section,
 27 the clerk shall collect from the defendant the following fees if they are
 28 required under IC 33-37-5:

- 29 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
 30 IC 33-37-5-4).
 31 (2) A marijuana eradication program fee (IC 33-37-5-7).
 32 (3) An alcohol and drug services program user fee
 33 (IC 33-37-5-8(b)).
 34 (4) A law enforcement continuing education program fee
 35 (IC 33-37-5-8(c)).
 36 (5) A drug abuse, prosecution, interdiction, and correction fee
 37 (IC 33-37-5-9).
 38 (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
 39 (7) A child abuse prevention fee (IC 33-37-5-12).
 40 (8) A domestic violence prevention and treatment fee
 41 (IC 33-37-5-13).
 42 (9) A highway ~~work~~ **worksite** zone fee (IC 33-37-5-14).



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- 1 (10) A deferred prosecution fee (IC 33-37-5-17).
 2 (11) A document storage fee (IC 33-37-5-20).
 3 (12) An automated record keeping fee (IC 33-37-5-21).
 4 (13) A late payment fee (IC 33-37-5-22).
 5 (14) A sexual assault victims assistance fee (IC 33-37-5-23).
 6 (15) A public defense administration fee (IC 33-37-5-21.2).
 7 (16) A judicial insurance adjustment fee (IC 33-37-5-25).
 8 (17) A judicial salaries fee (IC 33-37-5-26).
 9 (18) A court administration fee (IC 33-37-5-27).
 10 (19) A DNA sample processing fee (IC 33-37-5-26.2).
- 11 (c) Instead of the criminal costs fee prescribed by this section,
 12 except for the automated record keeping fee (IC 33-37-5-21), the clerk
 13 shall collect a pretrial diversion program fee if an agreement between
 14 the prosecuting attorney and the accused person entered into under
 15 IC 33-39-1-8 or **IC 33-39-1-8.5** requires payment of those fees by the
 16 accused person. The pretrial diversion program fee is:
 17 (1) an initial user's fee of fifty dollars (\$50); and
 18 (2) a monthly user's fee of ten dollars (\$10) for each month that
 19 the person remains in the pretrial diversion program.
- 20 (d) The clerk shall transfer to the county auditor or city or town
 21 fiscal officer the following fees, not later than thirty (30) days after the
 22 fees are collected:
 23 (1) The pretrial diversion fee.
 24 (2) The marijuana eradication program fee.
 25 (3) The alcohol and drug services program user fee.
 26 (4) The law enforcement continuing education program fee.
- 27 The auditor or fiscal officer shall deposit fees transferred under this
 28 subsection in the appropriate user fee fund established under
 29 IC 33-37-8.
- 30 (e) Unless otherwise directed by a court, if a clerk collects only part
 31 of a criminal costs fee from a defendant under this section, the clerk
 32 shall distribute the partial payment of the criminal costs fee as follows:
 33 (1) The clerk shall apply the partial payment to general court
 34 costs.
 35 (2) If there is money remaining after the partial payment is
 36 applied to general court costs under subdivision (1), the clerk
 37 shall distribute the remainder of the partial payment for deposit in
 38 the appropriate county user fee fund.
 39 (3) If there is money remaining after distribution under
 40 subdivision (2), the clerk shall distribute the remainder of the
 41 partial payment for deposit in the state user fee fund.
 42 (4) If there is money remaining after distribution under

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1 subdivision (3), the clerk shall distribute the remainder of the
2 partial payment to any other applicable user fee fund.

3 (5) If there is money remaining after distribution under
4 subdivision (4), the clerk shall apply the remainder of the partial
5 payment to any outstanding fines owed by the defendant.

6 SECTION 7. IC 33-37-5-17, AS AMENDED BY P.L.176-2005,
7 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2012]: Sec. 17. (a) This section applies to actions in which the
9 court defers prosecution under IC 33-39-1-8 **or IC 33-39-1-8.5.**

10 (b) In each action in which prosecution is deferred, the clerk shall
11 collect from the defendant a deferred prosecution fee of one hundred
12 twenty dollars (\$120) for court costs.

13 SECTION 8. IC 33-37-7-2, AS AMENDED BY P.L.229-2011,
14 SECTION 260, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The clerk of a circuit court
16 shall distribute semiannually to the auditor of state as the state share for
17 deposit in the homeowner protection unit account established by
18 IC 4-6-12-9 one hundred percent (100%) of the automated record
19 keeping fees collected under IC 33-37-5-21 with respect to actions
20 resulting in the accused person entering into a pretrial diversion
21 program agreement under IC 33-39-1-8 **or IC 33-39-1-8.5** or a deferral
22 program agreement under IC 34-28-5-1 and for deposit in the state
23 general fund seventy percent (70%) of the amount of fees collected
24 under the following:

- 25 (1) IC 33-37-4-1(a) (criminal costs fees).
26 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
27 (3) IC 33-37-4-3(a) (juvenile costs fees).
28 (4) IC 33-37-4-4(a) (civil costs fees).
29 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
30 (6) IC 33-37-4-7(a) (probate costs fees).
31 (7) IC 33-37-5-17 (deferred prosecution fees).

32 (b) The clerk of a circuit court shall distribute semiannually to the
33 auditor of state for deposit in the state user fee fund established in
34 IC 33-37-9-2 the following:

- 35 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
36 interdiction, and correction fees collected under
37 IC 33-37-4-1(b)(5).
38 (2) Twenty-five percent (25%) of the alcohol and drug
39 countermeasures fees collected under IC 33-37-4-1(b)(6),
40 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
41 (3) Fifty percent (50%) of the child abuse prevention fees
42 collected under IC 33-37-4-1(b)(7).

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- 1 (4) One hundred percent (100%) of the domestic violence
- 2 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- 3 (5) One hundred percent (100%) of the highway work zone fees
- 4 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 5 (6) One hundred percent (100%) of the safe schools fee collected
- 6 under IC 33-37-5-18.
- 7 (7) The following:
- 8 (A) For a county operating under the state's automated judicial
- 9 system, one hundred percent (100%) of the automated record
- 10 keeping fee (IC 33-37-5-21) not distributed under subsection
- 11 (a).
- 12 (B) For a county not operating under the state's automated
- 13 judicial system, eighty percent (80%) of the automated record
- 14 keeping fee (IC 33-37-5-21) not distributed under subsection
- 15 (a).
- 16 (c) The clerk of a circuit court shall distribute monthly to the county
- 17 auditor the following:
- 18 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
- 19 interdiction, and correction fees collected under
- 20 IC 33-37-4-1(b)(5).
- 21 (2) Seventy-five percent (75%) of the alcohol and drug
- 22 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 23 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 24 The county auditor shall deposit fees distributed by a clerk under this
- 25 subsection into the county drug free community fund established under
- 26 IC 5-2-11.
- 27 (d) The clerk of a circuit court shall distribute monthly to the county
- 28 auditor fifty percent (50%) of the child abuse prevention fees collected
- 29 under IC 33-37-4-1(b)(7). The county auditor shall deposit fees
- 30 distributed by a clerk under this subsection into the county child
- 31 advocacy fund established under IC 12-17-17.
- 32 (e) The clerk of a circuit court shall distribute monthly to the county
- 33 auditor one hundred percent (100%) of the late payment fees collected
- 34 under IC 33-37-5-22. The county auditor shall deposit fees distributed
- 35 by a clerk under this subsection as follows:
- 36 (1) If directed to do so by an ordinance adopted by the county
- 37 fiscal body, the county auditor shall deposit forty percent (40%)
- 38 of the fees in the clerk's record perpetuation fund established
- 39 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
- 40 county general fund.
- 41 (2) If the county fiscal body has not adopted an ordinance
- 42 described in subdivision (1), the county auditor shall deposit all

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1 the fees in the county general fund.

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

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

9 (1) One hundred percent (100%) of the support and maintenance
10 fees for cases designated as non-Title IV-D child support cases in
11 the Indiana support enforcement tracking system (ISETS)
12 collected under IC 33-37-5-6.

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

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

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

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

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

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

35 (1) The public defense administration fee collected under
36 IC 33-37-5-21.2.

37 (2) The judicial salaries fees collected under IC 33-37-5-26.

38 (3) The DNA sample processing fees collected under
39 IC 33-37-5-26.2.

40 (4) The court administration fees collected under IC 33-37-5-27.

41 (j) The clerk of a circuit court shall semiannually distribute to the
42 auditor of state for deposit in the judicial branch insurance adjustment

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1 account established by IC 33-38-5-8.2 one hundred percent (100%) of
2 the judicial insurance adjustment fee collected under IC 33-37-5-25.

3 (k) The proceeds of the service fee collected under
4 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as
5 follows:

6 (1) The clerk shall distribute one hundred percent (100%) of the
7 service fees collected in a circuit, superior, county, or probate
8 court to the county auditor for deposit in the county general fund.

9 (2) The clerk shall distribute one hundred percent (100%) of the
10 service fees collected in a city or town court to the city or town
11 fiscal officer for deposit in the city or town general fund.

12 (l) The proceeds of the garnishee service fee collected under
13 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
14 follows:

15 (1) The clerk shall distribute one hundred percent (100%) of the
16 garnishee service fees collected in a circuit, superior, county, or
17 probate court to the county auditor for deposit in the county
18 general fund.

19 (2) The clerk shall distribute one hundred percent (100%) of the
20 garnishee service fees collected in a city or town court to the city
21 or town fiscal officer for deposit in the city or town general fund.

22 (m) The clerk of the circuit court shall distribute semiannually to the
23 auditor of state for deposit in the home ownership education account
24 established by IC 5-20-1-27 one hundred percent (100%) of the
25 following:

26 (1) The mortgage foreclosure counseling and education fees
27 collected under IC 33-37-5-30 (before its expiration on January
28 1, 2013).

29 (2) Any civil penalties imposed and collected by a court for a
30 violation of a court order in a foreclosure action under
31 IC 32-30-10.5.

32 (n) This subsection applies to a county that is not operating under
33 the state's automated judicial system. The clerk of a circuit court shall
34 distribute monthly to the county auditor twenty percent (20%) of the
35 automated record keeping fee (IC 33-37-5-21) not distributed under
36 subsection (a) for deposit in the clerk's record perpetuation fund.

37 SECTION 9. IC 33-37-7-8, AS AMENDED BY P.L.182-2009(ss),
38 SECTION 396, IS AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) The clerk of a city or town
40 court shall distribute semiannually to the auditor of state as the state
41 share for deposit in the homeowner protection unit account established
42 by IC 4-6-12-9 one hundred percent (100%) of the automated record

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1 keeping fees collected under IC 33-37-5-21 with respect to actions
 2 resulting in the accused person entering into a pretrial diversion
 3 program agreement under IC 33-39-1-8 **or IC 33-39-1-8.5** or a deferral
 4 program agreement under IC 34-28-5-1 and for deposit in the state
 5 general fund fifty-five percent (55%) of the amount of fees collected
 6 under the following:

- 7 (1) IC 33-37-4-1(a) (criminal costs fees).
- 8 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 9 (3) IC 33-37-4-4(a) (civil costs fees).
- 10 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 11 (5) IC 33-37-5-17 (deferred prosecution fees).

12 (b) The city or town fiscal officer shall distribute monthly to the
 13 county auditor as the county share twenty percent (20%) of the amount
 14 of fees collected under the following:

- 15 (1) IC 33-37-4-1(a) (criminal costs fees).
- 16 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 17 (3) IC 33-37-4-4(a) (civil costs fees).
- 18 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 19 (5) IC 33-37-5-17 (deferred prosecution fees).

20 (c) The city or town fiscal officer shall retain twenty-five percent
 21 (25%) as the city or town share of the fees collected under the
 22 following:

- 23 (1) IC 33-37-4-1(a) (criminal costs fees).
- 24 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 25 (3) IC 33-37-4-4(a) (civil costs fees).
- 26 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 27 (5) IC 33-37-5-17 (deferred prosecution fees).

28 (d) The clerk of a city or town court shall distribute semiannually to
 29 the auditor of state for deposit in the state user fee fund established in
 30 IC 33-37-9 the following:

- 31 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 32 interdiction, and correction fees collected under
 33 IC 33-37-4-1(b)(5).
- 34 (2) Twenty-five percent (25%) of the alcohol and drug
 35 countermeasures fees collected under IC 33-37-4-1(b)(6),
 36 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 37 (3) 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 (4) One hundred percent (100%) of the safe schools fee collected
 40 under IC 33-37-5-18.
- 41 (5) One hundred percent (100%) of the automated record keeping
 42 fee (IC 33-37-5-21) not distributed under subsection (a).

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1 (e) The clerk of a city or town court shall distribute monthly to the
2 county auditor the following:

3 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
4 interdiction, and corrections fees collected under
5 IC 33-37-4-1(b)(5).

6 (2) Seventy-five percent (75%) of the alcohol and drug
7 countermeasures fees collected under IC 33-37-4-1(b)(6),
8 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

9 The county auditor shall deposit fees distributed by a clerk under this
10 subsection into the county drug free community fund established under
11 IC 5-2-11.

12 (f) The clerk of a city or town court shall distribute monthly to the
13 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
14 percent (100%) of the following:

15 (1) The late payment fees collected under IC 33-37-5-22.

16 (2) The small claims service fee collected under
17 IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

18 (3) The small claims garnishee service fee collected under
19 IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

20 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
21 fees distributed by a clerk under this subsection in the city or town
22 general fund.

23 (g) The clerk of a city or town court shall semiannually distribute to
24 the auditor of state for deposit in the state general fund one hundred
25 percent (100%) of the following:

26 (1) The public defense administration fee collected under
27 IC 33-37-5-21.2.

28 (2) The DNA sample processing fees collected under
29 IC 33-37-5-26.2.

30 (3) The court administration fees collected under IC 33-37-5-27.

31 (h) The clerk of a city or town court shall semiannually distribute to
32 the auditor of state for deposit in the judicial branch insurance
33 adjustment account established by IC 33-38-5-8.2 one hundred percent
34 (100%) of the judicial insurance adjustment fee collected under
35 IC 33-37-5-25.

36 (i) The clerk of a city or town court shall semiannually distribute to
37 the auditor of state for deposit in the state general fund seventy-five
38 percent (75%) of the judicial salaries fee collected under
39 IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
40 percent (25%) of the judicial salaries fee collected under
41 IC 33-37-5-26. The funds retained by the city or town shall be
42 prioritized to fund city or town court operations.

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1 SECTION 10. IC 33-39-1-8.5 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: **Sec. 8.5. (a) A prosecuting attorney**

4 **shall withhold prosecution against an accused person if the person:**

5 (1) received medical assistance due to alcohol consumption in
6 response to a request for medical assistance by another
7 person;

8 (2) is charged with an offense under IC 7.1-5-1-3, IC 7.1-5-1-6,
9 or IC 7.1-5-7-7 as a result of alcohol consumption for which
10 the person received medical assistance as described under
11 subdivision (1);

12 (3) agrees to a pretrial diversion program in which the
13 person, not later than ninety (90) days after the initial hearing
14 on the charge, completes:

15 (A) an alcohol education program; and

16 (B) twenty (20) hours of community service;
17 approved by the prosecuting attorney; and

18 (4) has not had two (2) prosecutions previously withheld
19 under this section.

20 (b) An agreement under subsection (a)(3) may include
21 conditions that the person:

22 (1) pay to the clerk of the court an initial user's fee and
23 monthly user's fees in the amounts specified in IC 33-37-4-1;

24 (2) report to the prosecuting attorney at reasonable times;
25 and

26 (3) answer all reasonable inquiries by the prosecuting
27 attorney and promptly notify the prosecuting attorney of any
28 change in address or employment.

29 (c) The terms of an agreement under subsection (a)(3) must be
30 recorded in an instrument signed by the person and the
31 prosecuting attorney.

32 (d) The agreement must be filed in the court in which the charge
33 described in subsection (a)(2) is pending.

34 (e) The prosecuting attorney shall electronically transmit
35 information required by the prosecuting attorneys council
36 concerning the withheld prosecution to the prosecuting attorneys
37 council of Indiana, in a manner and format designated by the
38 prosecuting attorneys council of Indiana.

39 (f) All money collected by the clerk as user's fees under this
40 section shall be deposited in the appropriate user fee fund under
41 IC 33-37-8.

42 (g) The pretrial diversion fees that apply to the pretrial

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1 **diversion program established under section 8 of this chapter also**
2 **apply to the pretrial diversion program established under this**
3 **section.**

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