

# SENATE BILL No. 317

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-7-2-7; IC 33-31-1-5; IC 33-32; IC 33-33; IC 33-38-10-6; IC 34-35-5.

**Synopsis:** Circuit court clerk administrative matters. Removes the requirement that the circuit court clerk (clerk) attend court sessions. Removes or repeals the authorization for the clerk to receive a fee or per diem for attending court sessions. Permits an individual to receive credit for training hours completed after the individual is elected or selected to the office of circuit court clerk and before the individual begins serving in that office. Provides that court costs and fees must be used to pay for the clerk's initial mailing by certified mail to each party required to receive the mailing at a single address, and requires that a person requesting a mailing by certified mail after the initial mailing pay the cost of the mailing. Authorizes the clerk to retain as an administrative fee an amount up to three dollars whenever a person submits an amount that exceeds the fee required for certain licenses issued by the clerk. Requires the clerk to deposit the amount retained as an administrative fee in the clerk's record perpetuation fund.

**Effective:** July 1, 2012.

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January 5, 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. 317



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 5-7-2-7 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2012]: Sec. 7. It shall be unlawful for any board  
3 of commissioners to allow any county, township or other public officer,  
4 any sum of money out of a county treasury except when the statutes  
5 confer the clear and unequivocal authority to do so. ~~Provided, That the~~  
6 ~~clerk of the circuit court shall receive for attendance upon the circuit~~  
7 ~~court the same per diem as is allowed for attendance upon criminal and~~  
8 ~~superior courts.~~

9 SECTION 2. IC 33-31-1-5 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The ~~clerk and~~  
11 ~~sheriff~~ shall attend the court, and **the clerk and the sheriff shall**  
12 discharge all the duties pertaining to their respective offices required  
13 by law in the circuit court.

- 14 (b) All laws:  
15 (1) prescribing the duties and liability of the officers;  
16 (2) prescribing the mode of proceeding against either or both of  
17 the officers for any neglect of official duty; and



1 (3) allowing fees and providing for the collection of the fees;  
2 in the circuit court, extend to the probate court, as applicable.

3 SECTION 3. IC 33-32-2-9, AS ADDED BY P.L.45-2010,  
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2012]: Sec. 9. (a) As used in this section, "training courses"  
6 refers to training courses related to the office of circuit court clerk that  
7 are developed by the Association of Indiana Counties and approved by  
8 the state board of accounts.

9 (b) An individual elected **or selected** to the office of circuit court  
10 clerk after November 2, 2010, shall complete at least:

11 (1) fifteen (15) hours of training courses within one (1) year; and  
12 (2) forty (40) hours of training courses within three (3) years;  
13 after ~~beginning the individual's term as circuit court clerk; the~~  
14 **individual is elected or selected to that office.**

15 (c) **A training course that an individual completes:**

16 (1) **after being elected or selected to the office of circuit court**  
17 **clerk; and**  
18 (2) **before the individual begins serving in that office;**  
19 **applies toward the hours required under subsection (b).**

20 SECTION 4. IC 33-32-2-10 IS ADDED TO THE INDIANA CODE  
21 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
22 1, 2012]: **Sec. 10. (a) This section applies whenever the clerk is**  
23 **required to send a document filed with a court by certified mail.**

24 (b) **Court costs and fees (as determined under IC 33-37) must be**  
25 **used to pay for the initial mailing by certified mail to each party**  
26 **required to receive the mailing at a single address.**

27 (c) **After the initial mailing described in subsection (b), a person**  
28 **requesting that the clerk send a mailing by certified mail shall pay**  
29 **the cost of the mailing.**

30 SECTION 5. IC 33-32-3-1 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The clerk shall  
32 endorse the time of filing on each writing required to be filed in the  
33 office of the clerk.

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

36 (c) The clerk shall procure, at the expense of the county, all  
37 necessary judges' appearance, bar, judgment, and execution dockets,  
38 order books, and final record books.

39 (d) The clerk shall

40 (1) ~~attend, in person or by deputy, the circuit court of the county;~~  
41 ~~and~~  
42 (2) ~~enter in proper record books all orders, judgments, and~~

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1 decrees of the court.

2 (e) Not more than fifteen (15) days after the cases are finally  
3 determined, the clerk shall enter in final record books a complete  
4 record of:

- 5 (1) all cases involving the title to land;  
6 (2) all criminal cases in which the punishment is death or  
7 imprisonment, except where a nolle prosequi is entered or an  
8 acquittal is had; and  
9 (3) all other cases, at the request of either party and upon payment  
10 of the costs.

11 SECTION 6. IC 33-32-5-3 IS ADDED TO THE INDIANA CODE  
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2012]: **Sec. 3. (a) If:**

14 **(1) a person, in payment of a fee required under this chapter**  
15 **for a license, submits an amount that exceeds the fee required;**  
16 **and**

17 **(2) the application for the license meets the requirements for**  
18 **issuing the license;**

19 **the clerk shall issue the license.**

20 **(b) If the amount submitted in payment of a fee required under**  
21 **this chapter for a license is at least three dollars (\$3) more than the**  
22 **fee required, the clerk shall, upon the request of the person entitled**  
23 **to the refund:**

24 **(1) retain the administrative fee described in subsection (c);**  
25 **and**

26 **(2) refund the excess amount.**

27 **(c) The clerk may retain as an administrative fee an amount up**  
28 **to three dollars (\$3) of the excess amount submitted in payment of**  
29 **a fee required under this chapter for a license. The clerk shall**  
30 **deposit the amount retained as an administrative fee under this**  
31 **subsection in the clerk's record perpetuation fund established**  
32 **under IC 33-37-5-2.**

33 SECTION 7. IC 33-33-2-17 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) The ~~clerk and~~  
35 sheriff shall attend the Allen superior court, and **the clerk and the**  
36 **sheriff shall** discharge all the duties pertaining to their respective  
37 offices as they are required to do by law in the circuit court.

38 (b) All laws prescribing the duties and liabilities of clerk and sheriff  
39 and the mode of proceeding against them, or either of them, for neglect  
40 of official duty, allowing fees, and providing for the collection fees in  
41 the circuit court, apply to the Allen superior court.

42 (c) In a case in the Allen superior court based upon a violation of a

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1 city ordinance where fines or forfeitures are adjudged against a party:

2 (1) the fines or forfeitures shall be paid to and collected by the  
3 clerk and regularly remitted to the city clerk of the city that issued  
4 the ordinance; and

5 (2) the city clerk shall disburse the fines or forfeitures as required  
6 by law.

7 Payment of fines for admitted parking violations shall be made to the  
8 city clerk of the city that issued the ordinances concerning parking  
9 violations.

10 SECTION 8. IC 33-33-3-3 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The clerk of the  
12 Bartholomew circuit court is the clerk of the Bartholomew superior  
13 courts, and the sheriff of Bartholomew County is the sheriff of the  
14 Bartholomew superior courts. The ~~clerk and~~ sheriff shall attend the  
15 courts, and **the clerk and the sheriff shall** discharge all the duties  
16 pertaining to their respective offices as they are required to do by law  
17 with reference to the Bartholomew circuit court.

18 SECTION 9. IC 33-33-9-4 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The clerk of the Cass  
20 circuit court shall serve as the clerk of each Cass superior court, and  
21 the sheriff of Cass County shall serve as the sheriff of each Cass  
22 superior court. ~~They~~ **The sheriff shall** attend the courts, and **the clerk**  
23 **and the sheriff shall** perform the same duties relating to their offices  
24 as they are required to do with respect to the Cass circuit court.

25 SECTION 10. IC 33-33-19-4 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The clerk of the  
27 Dubois circuit court shall serve as the clerk of the Dubois superior  
28 court, and the sheriff of Dubois County shall serve as the sheriff of the  
29 Dubois superior court. ~~They~~ **The sheriff shall** attend the court, and **the**  
30 **clerk and the sheriff shall** perform the same duties relating to their  
31 offices as they are required to do with respect to the Dubois circuit  
32 court.

33 SECTION 11. IC 33-33-79.2-4 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The clerk of the  
35 Tippecanoe circuit court shall be the clerk of superior court No. 2 of  
36 Tippecanoe County, and the sheriff of Tippecanoe County shall be the  
37 sheriff of superior court No. 2 of Tippecanoe County. The ~~clerk and~~  
38 sheriff shall attend court, and **the clerk and the sheriff shall** discharge  
39 all the duties pertaining to their respective ~~office~~ **offices** as they are  
40 required to do by law with reference to the Tippecanoe circuit court.

41 (b) The judge of superior court No. 2 of Tippecanoe County shall  
42 appoint a bailiff and an official reporter for the court to serve during the

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1 court. The judge shall fix their compensation within the limits and in  
2 the manner provided by law concerning bailiffs and official court  
3 reporters. The compensation shall be paid monthly out of the treasury  
4 of Tippecanoe County, in the manner provided by law.

5 SECTION 12. IC 33-38-10-6 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) The clerk of the  
7 circuit court of the county in which the case is filed serves as the clerk  
8 of the court for a case heard by a private judge, and the sheriff of that  
9 county serves as the sheriff of the court for the case. ~~The clerk and the~~  
10 ~~sheriff shall attend the proceedings, and the clerk and the sheriff~~  
11 perform the same duties relating to their offices as are required for the  
12 circuit court of the county in which the case is filed.

13 (b) The clerk of the circuit court of the county in which the case is  
14 filed shall provide to a private judge for each case all books, dockets,  
15 papers, and printed blanks necessary to discharge the duties of the  
16 court.

17 SECTION 13. IC 34-35-5-2, AS AMENDED BY P.L.118-2007,  
18 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2012]: Sec. 2. Expenses to be paid under section 1 of this  
20 chapter include the following:

- 21 (1) The expense of keeping the prisoner, if any.
- 22 (2) The expense of transporting the prisoner to or from any penal  
23 institution.
- 24 (3) Any extraordinary expense for safekeeping the prisoner.
- 25 (4) The fee set by the venue court under IC 33-40-2-5 for pauper  
26 counsel, if counsel was appointed by that court.
- 27 (5) The expense of any mileage, meals, lodging, and per diems  
28 paid for or to jurors.
- 29 (6) The per diems paid jury administrators for drawing any special  
30 venire.
- 31 (7) The sum of five dollars (\$5) for each day or part of a day a  
32 bailiff is engaged in assisting the court in the trial of the cause.
- 33 (8) The sum of eight dollars (\$8) for each day or part of a day an  
34 official court reporter takes evidence or testimony before the  
35 judge or jury concerning the cause.
- 36 (9) The sum of ten dollars (\$10) per day for each day of trial for  
37 use of facilities and utilities.
- 38 (10) The sum of five dollars (\$5) for notifying the jury not to  
39 attend court after having been summoned in any cause.
- 40 (11) The amount of telephone or telegraph communications made  
41 by the court or authorized by it.
- 42 ~~(12) The per diem allowed by law to the clerk of the court for~~

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1           attending court:  
2           SECTION 14. IC 34-35-5-8 IS REPEALED [EFFECTIVE JULY 1,  
3           2012]. Sec. 8: The clerk is entitled to collect two dollars (\$2) from the  
4           county treasury for each calendar day on which the clerk or the clerk's  
5           deputy attends a court when it is occupied with business concerning  
6           change of venue. The payment authorized under this section is not  
7           affected by the number of items filed or the business transacted by the  
8           court on that day.

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