



March 29, 2013

ENGROSSED HOUSE BILL No. 1393

DIGEST OF HB 1393 (Updated March 27, 2013 12:37 pm - DI 106)

Citations Affected: IC 33-23; IC 33-24; IC 33-37.

Synopsis: Judicial technology and automation. Establishes the judicial technology oversight committee (committee) to: (1) conduct a continuous study of information technology applications for Indiana's judicial system; (2) make recommendations to the division of state court administration (division) for the establishment of a pilot program concerning electronic filing; (3) allow public court records to be available on the Internet; (4) study the appropriate use of private sector vendors; and (5) make recommendations to the supreme court concerning the implementation of policies, standards, and rules that promote the effective use of technology and automation in Indiana courts. Provides that the committee consists of: (1) the chief justice of the supreme court; (2) the chief information officer of the office of technology; (3) two members of the senate; (4) two members of the
(Continued next page)

Effective: July 1, 2013.

Steuerwald, Richardson, Stemler, DeLaney

(SENATE SPONSORS — KENLEY, HERSHMAN, BRODEN, TALLIAN,
RANDOLPH)

January 22, 2013, read first time and referred to Committee on Ways and Means.
February 18, 2013, amended, reported — Do Pass.
February 20, 2013, read second time, amended, ordered engrossed.
February 21, 2013, engrossed.
February 25, 2013, read third time, passed. Yeas 70, nays 24.

SENATE ACTION

February 27, 2013, read first time and referred to Committee on Judiciary.
March 28, 2013, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

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house of representatives; (5) one trial court judge; (6) one circuit court clerk; (7) one attorney admitted to the practice of law in Indiana; (8) a circuit court clerk for a county that does not operate under the state's automated judicial system; and (9) an individual affiliated with a taxpayer organization. Requires the division to develop and implement a standard protocol for sending and receiving certain court data by December 31, 2013, and requires the standard protocol to permit vendors to access the system on an equitable basis. Allows the budget committee to release funds for the judicial technology and automation project after the division certifies in conjunction with the Indiana office of technology that the judicial technology automation project is in compliance with certain information sharing and exchange requirements. Provides that the automated record keeping fee increases for two years from \$5 to \$7 for all civil, criminal, infraction, and ordinance violation actions except actions resulting in the accused person entering into a: (1) pretrial diversion program agreement; or (2) deferral program agreement. Provides that the automated record keeping fee is \$5 for all civil, criminal, infraction, and ordinance violation actions resulting in the accused person entering into a: (1) pretrial diversion program agreement; or (2) deferral program agreement.

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March 29, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1393

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 33-23-17 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]:

4 **Chapter 17. Judicial Technology Oversight Committee**

5 **Sec. 1. As used in this chapter, "committee" refers to the**
6 **judicial technology oversight committee established in section 2 of**
7 **this chapter.**

8 **Sec. 2. (a) The judicial technology oversight committee is**
9 **established.**

10 **(b) The committee consists of the following eleven (11)**
11 **members:**

12 **(1) The chief justice of the supreme court or the chief justice's**
13 **designee.**

14 **(2) The chief information officer of the office of technology**
15 **appointed under IC 4-13.1-2-3 or the chief information**
16 **officer's designee.**

17 **(3) Two (2) members of the senate appointed by the president**

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1 pro tempore of the senate, not more than one (1) of whom
2 may be affiliated with the same political party.

3 (4) Two (2) members of the house of representatives
4 appointed by the speaker of the house of representatives, not
5 more than one (1) of whom may be affiliated with the same
6 political party.

7 (5) One (1) trial court judge appointed by the president of the
8 Indiana Judges Association.

9 (6) One (1) circuit court clerk appointed by the president of
10 the Association of Clerks of Circuit Courts of Indiana.

11 (7) One (1) attorney in good standing admitted to the practice
12 of law in Indiana appointed by the president of the Indiana
13 State Bar Association.

14 (8) One (1) clerk of the circuit court for a county that does not
15 operate under the state's automated judicial system,
16 appointed by the governor.

17 (9) One (1) individual affiliated with a taxpayer organization,
18 appointed by the governor.

19 (c) The following appointed members of the committee shall
20 serve the following initial terms:

21 (1) One (1) member of the senate shall be appointed for an
22 initial term of one (1) year, and one (1) member of the senate
23 shall be appointed for an initial term of two (2) years, as
24 determined by the president pro tempore of the senate.

25 (2) One (1) member of the house of representatives shall be
26 appointed for an initial term of one (1) year, and one (1)
27 member of the house of representatives shall be appointed for
28 an initial term of two (2) years, as determined by the speaker
29 of the house of representatives.

30 (3) The initial term of the circuit court clerk appointed by the
31 president of the Association of Clerks of Circuit Courts of
32 Indiana is one (1) year.

33 (4) The initial term of the clerk of the circuit court for a
34 county that does not operate under the state's automated
35 judicial system is two (2) years.

36 As the initial terms expire, successors shall be appointed for a full
37 three (3) year term.

38 (d) Except as provided in subsection (c) concerning the initial
39 terms of certain appointed members, the term of each appointed
40 member of the committee is three (3) years. A member appointed
41 to fill the unexpired term of a member serves until the end of the
42 unexpired term. A member may be reappointed.



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Sec. 3. (a) The chief justice or the chief justice's designee shall serve as the chairperson of the committee.

(b) The committee shall meet:

- (1) at least one (1) time per year; and**
- (2) at the call of the chairperson.**

Sec. 4. (a) The committee shall do the following:

(1) Conduct a continuous study of information technology applications for Indiana's judicial system, including an analysis of appropriate and equitable funding, automated recordkeeping fees and record perpetuation costs, and their allocation between state and local governmental entities.

(2) Develop a long range strategy for technology and automation in Indiana's judicial system, including:

- (A) establishing plans for funding and implementing technology and automation;**
- (B) making recommendations to the division of state court administration for the establishment of a pilot program concerning electronic filing;**
- (C) allowing public court records to be available on the Internet;**
- (D) studying the appropriate use of private sector vendors that offer similar interfacing or complementary systems; and**
- (E) studying any other issues the committee considers appropriate.**

(3) Make recommendations to the supreme court concerning the implementation of policies, standards, and rules that promote the effective use of technology and automation in Indiana courts.

(b) The committee may employ an independent consultant to assist with its study.

Sec. 5. The division of state court administration shall staff the committee.

Sec. 6. (a) Except as provided in subsection (b), per diem, mileage, travel allowances, and other expenses paid to committee members shall be paid from appropriations made to the supreme court.

(b) Per diem, mileage, and travel allowances paid to committee members who are members of the general assembly shall be paid from appropriations made to the legislative council or the legislative services agency.

Sec. 7. Each member of the committee who is not a state

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1 employee is entitled to the minimum salary per diem provided by
 2 IC 4-10-11-2.1(b). The member is also entitled to reimbursement
 3 for traveling expenses as provided under IC 4-13-1-4 and other
 4 expenses actually incurred in connection with the member's duties
 5 as provided in the state policies and procedures established by the
 6 Indiana department of administration and approved by the budget
 7 agency.

8 **Sec. 8.** Each member of the committee who is a state employee
 9 but who is not a member of the general assembly is entitled to
 10 reimbursement for traveling expenses as provided under
 11 IC 4-13-1-4 and other expenses actually incurred in connection
 12 with the member's duties as provided in the state policies and
 13 procedures established by the Indiana department of
 14 administration and approved by the budget agency.

15 **Sec. 9.** Each member of the committee who is a member of the
 16 general assembly is entitled to receive the same per diem, mileage,
 17 and travel allowances paid to legislative members of interim study
 18 committees established by the legislative council.

19 **Sec. 10.** The affirmative votes of a majority of the members of
 20 the committee are required for the committee to take action on any
 21 measure.

22 SECTION 2. IC 33-24-6-3, AS AMENDED BY P.L.1-2010,
 23 SECTION 132, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) The division of state court
 25 administration shall do the following:

26 (1) Examine the administrative and business methods and systems
 27 employed in the offices of the clerks of court and other offices
 28 related to and serving the courts and make recommendations for
 29 necessary improvement.

30 (2) Collect and compile statistical data and other information on
 31 the judicial work of the courts in Indiana. All justices of the
 32 supreme court, judges of the court of appeals, judges of all trial
 33 courts, and any city or town courts, whether having general or
 34 special jurisdiction, court clerks, court reporters, and other
 35 officers and employees of the courts shall, upon notice by the
 36 executive director and in compliance with procedures prescribed
 37 by the executive director, furnish the executive director the
 38 information as is requested concerning the nature and volume of
 39 judicial business. The information must include the following:

40 (A) The volume, condition, and type of business conducted by
 41 the courts.

42 (B) The methods of procedure in the courts.



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- 1 (C) The work accomplished by the courts.
- 2 (D) The receipt and expenditure of public money by and for
- 3 the operation of the courts.
- 4 (E) The methods of disposition or termination of cases.
- 5 (3) Prepare and publish reports, not less than one (1) or more than
- 6 two (2) times per year, on the nature and volume of judicial work
- 7 performed by the courts as determined by the information
- 8 required in subdivision (2).
- 9 (4) Serve the judicial nominating commission and the judicial
- 10 qualifications commission in the performance by the commissions
- 11 of their statutory and constitutional functions.
- 12 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 13 (6) Administer the judicial technology and automation project
- 14 fund established by section 12 of this chapter.
- 15 (7) **By December 31, 2013, develop and implement** a standard
- 16 protocol for ~~the exchange of information, sending and receiving~~
- 17 ~~court data: 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 **The standard protocol developed and implemented under this**
- 31 **subdivision shall permit private sector vendors, including**
- 32 **vendors providing service to a local system and vendors**
- 33 **accessing the system for information, to send and receive**
- 34 **court information on an equitable basis and at an equitable**
- 35 **cost.**
- 36 (8) Establish and administer an electronic system for receiving
- 37 information that relates to certain individuals who may be
- 38 prohibited from possessing a firearm and transmitting this
- 39 information to the Federal Bureau of Investigation for inclusion
- 40 in the NICS.
- 41 (9) **Staff the judicial technology oversight committee**
- 42 **established by IC 33-23-17-2.**

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1 (b) All forms to be used in gathering data must be approved by the
 2 supreme court and shall be distributed to all judges and clerks before
 3 the start of each period for which reports are required.

4 (c) The division may adopt rules to implement this section.

5 SECTION 3. IC 33-24-6-12, AS AMENDED BY P.L.229-2011,
 6 SECTION 256, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) The judicial technology and
 8 automation project fund is established to fund the judicial technology
 9 and automation project. The division of state court administration shall
 10 administer the fund. The fund consists of the following:

11 (1) Deposits made under IC 33-37-9-4.

12 (2) Other appropriations made by the general assembly.

13 (3) Grants and gifts designated for the fund or the judicial
 14 technology and automation project.

15 (b) The treasurer of state shall invest the money in the fund not
 16 currently needed to meet the obligations of the fund in the same
 17 manner as other public funds may be invested.

18 (c) Money in the fund at the end of a state fiscal year does not revert
 19 to the state general fund.

20 (d) The budget committee may release funds for the judicial
 21 technology and automation project after the division of state court
 22 administration certifies **in conjunction with the Indiana office of**
 23 **technology**, that the judicial technology automation project is in
 24 compliance with the information sharing and exchange provisions of
 25 IC 33-24-6-3(a).

26 SECTION 4. IC 33-37-1-5 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2013]: Sec. 5. (a) As used in this section, "formal written
 29 commitment" means:

30 (1) adopting a resolution or ordinance; and

31 (2) entering into an agreement.

32 (b) In the context of this article, a county, city, or town that has
 33 made a formal written commitment to convert to or adopt the
 34 state's automated judicial system is considered to be operating
 35 under the state's automated judicial system.

36 SECTION 5. IC 33-37-5-21, AS AMENDED BY P.L.229-2011,
 37 SECTION 258, IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2013]: Sec. 21. (a) This section applies to all
 39 civil, criminal, infraction, and ordinance violation actions.

40 (b) The clerk shall collect an automated record keeping fee as
 41 follows: of:

42 (1) seven dollars (\$7) after June 30, ~~2003~~, 2013, and before July

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1, ~~2011~~ **2015**, in all actions except actions described in subdivision (2);
 (2) **five dollars (\$5) after June 30, 2013, and before July 1, 2015**, with respect to actions resulting in the accused person entering into a:

(A) **pretrial diversion program agreement under IC 33-39-1-8; or**

(B) **deferral program agreement under IC 34-28-5-1; and**
~~(2) (3) five dollars (\$5) after June 30, 2011, 2015.~~

SECTION 6. IC 33-37-7-2, AS AMENDED BY P.L.136-2012, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

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

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

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).



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1 (6) One hundred percent (100%) of the safe schools fee collected
2 under IC 33-37-5-18.

3 (7) The following:

4 (A) For a county operating under the state's automated judicial
5 system, one hundred percent (100%) of the automated record
6 keeping fee (IC 33-37-5-21) not distributed under subsection
7 (a).

8 **(B) This clause applies before July 1, 2013, and after June**
9 **30, 2015.** For a county not operating under the state's
10 automated judicial system, eighty percent (80%) of the
11 automated record keeping fee (IC 33-37-5-21) not distributed
12 under subsection (a).

13 **(C) This clause applies after June 30, 2013, and before July**
14 **1, 2015. For a county not operating under the state's**
15 **automated judicial system, eighty-five and seven-tenths**
16 **percent (85.7%) of the automated record keeping fee**
17 **(IC 33-37-5-21) not distributed under subsection (a).**

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

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

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

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

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

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

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

41 (e) The clerk of the circuit court shall distribute semiannually to the
42 auditor of state for deposit in the sexual assault victims assistance

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1 account established by IC 5-2-6-23(h) one hundred percent (100%) of
2 the sexual assault victims assistance fees collected under
3 IC 33-37-5-23.

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

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

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

16 The county clerk shall distribute monthly to the department of child
17 services the percentage share of the support and maintenance fees for
18 cases designated as Title IV-D child support cases in ISETS, or the
19 successor statewide automated support enforcement system, collected
20 under IC 33-37-5-6 that is not reimbursable to the county at the
21 applicable federal financial participation rate.

22 (g) 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 (h) 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 (i) 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 (j) 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 (k) 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 (l) 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 (m) 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%)~~ **the**
 35 **following percentage** of the automated record keeping fee
 36 (IC 33-37-5-21) not distributed under subsection (a) for deposit in the
 37 clerk's record perpetuation fund:
 38 (1) **twenty percent (20%), before July 1, 2013, and after June**
 39 **30, 2015; or**
 40 (2) **fourteen and three-tenths percent (14.3%), after June 30,**
 41 **2013, and before July 1, 2015.**
 42 (n) The clerk of a circuit court shall distribute semiannually to the

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1 auditor of state one hundred percent (100%) of the pro bono legal
2 services fees collected before July 1, 2017, under IC 33-37-5-31. The
3 auditor of state shall transfer semiannually the pro bono legal services
4 fees to the Indiana Bar Foundation (or a successor entity) as the entity
5 designated to organize and administer the interest on lawyers trust
6 accounts (IOLTA) program under Rule 1.15 of the Rules of
7 Professional Conduct of the Indiana supreme court. The Indiana Bar
8 Foundation shall:

9 (1) deposit in an appropriate account and otherwise manage the
10 fees the Indiana Bar Foundation receives under this subsection in
11 the same manner the Indiana Bar Foundation deposits and
12 manages the net earnings the Indiana Bar Foundation receives
13 from IOLTA accounts; and

14 (2) use the fees the Indiana Bar Foundation receives under this
15 subsection to assist or establish approved pro bono legal services
16 programs.

17 The handling and expenditure of the pro bono legal services fees
18 received under this section by the Indiana Bar Foundation (or its
19 successor entity) are subject to audit by the state board of accounts. The
20 amounts necessary to make the transfers required by this subsection are
21 appropriated from the state general fund.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1393, 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 1, line 10, delete "seven (7)" and insert "**nine (9)**".

Page 2, between lines 9 and 10, begin a new line block indented and insert:

"(8) One (1) clerk of the circuit court for a county that does not operate under the state's automated judicial system, appointed by the governor.

(9) One (1) individual affiliated with a taxpayer organization, appointed by the governor."

Page 4, delete lines 37 through 42, begin a new paragraph and insert:

"SECTION 3. IC 33-37-1-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 5. (a) As used in this section, "formal written commitment" means making an unequivocal affirmative written intention to proceed, including:**

(1) adopting a resolution or ordinance; and

(2) entering into an agreement.

(b) In the context of this article, a county, city, or town that has made a formal written commitment to convert to or adopt the state's automated judicial system is considered to be operating under the state's automated judicial system, regardless of whether the conversion to or adoption of the state's automated judicial system is yet fully accomplished.

SECTION 3. IC 33-37-5-21, AS AMENDED BY P.L.229-2011, SECTION 258, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 21. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.**

(b) The clerk shall collect an automated record keeping fee as follows: of:

(1) seven dollars (\$7) after June 30, ~~2003~~, 2013, and before July 1, ~~2011~~, 2015, in all actions except actions described in subdivision (2);

(2) five dollars (\$5) after June 30, 2013, and before July 1, 2015, with respect to actions resulting in the accused person entering into a:

(A) pretrial diversion program agreement under IC 33-39-1-8; or

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(B) deferral program agreement under IC 34-28-5-1; and
~~(2) (3)~~ five dollars (\$5) after June 30, ~~2014~~ 2015.

SECTION 4. IC 33-37-7-2, AS AMENDED BY P.L.136-2012, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

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

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

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) The following:
 - (A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

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(B) This clause applies before July 1, 2013, and after June 30, 2015. For a county not operating under the state's automated judicial system, eighty percent (80%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(C) This clause applies after June 30, 2013, and before July 1, 2015. For a county not operating under the state's automated judicial system, eighty-five and seven-tenths percent (85.7%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

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

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

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(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 distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. 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 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

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

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

(f) The clerk of a circuit court shall distribute monthly 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

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the Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS or the successor statewide automated support enforcement system collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the successor statewide automated support enforcement system, collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

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

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

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

(h) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. 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 following:

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

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

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

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

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

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

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate

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court to the county auditor for deposit in the county general fund.

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

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

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

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

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

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

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

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

(1) twenty percent (20%), before July 1, 2013, and after June 30, 2015; or

(2) fourteen and three-tenths percent (14.3%), after June 30, 2013, and before July 1, 2015.

(n) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar

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Foundation shall:

- (1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and
- (2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund."

Delete page 5.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1393 as introduced.)

BROWN T, Chair

Committee Vote: yeas 14, nays 7.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1393 be amended to read as follows:

Page 4, line 17, after "Develop" insert "**and implement**".

Page 4, line 17, strike "the exchange of information," and insert "**sending and receiving court data with all providers who request the data**".

Page 4, line 18, strike "2009:" and insert "**2013:**".

Page 4, between lines 41 and 42, begin a new paragraph and insert: "SECTION 3. IC 33-24-6-12, AS AMENDED BY P.L.229-2011, SECTION 256, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) The judicial technology and automation project fund is established to fund the judicial technology and automation project. The division of state court administration shall administer the fund. The fund consists of the following:

- (1) Deposits made under IC 33-37-9-4.

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- (2) Other appropriations made by the general assembly.
- (3) Grants and gifts designated for the fund or the judicial technology and automation project.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The budget committee may release funds for the judicial technology and automation project after the division of state court administration certifies **through an independent party at the expense of the division of state court administration** that the judicial technology automation project is in compliance with the information sharing and exchange provisions of IC 33-24-6-3(a)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1393 as printed February 18, 2013.)

FRIEND

HOUSE MOTION

Mr. Speaker: I move that House Bill 1393 be amended to read as follows:

Page 2, line 27, after "automation;" delete "and".

Page 2, line 28, after "(B)" insert "**making recommendations to the division of state court administration for the establishment of a pilot program concerning electronic filing;**

(C) allowing public court records to be available on the Internet;

(D) studying what information a judge should and should not have access to in order for the judge to maintain impartiality and fairness and avoid bias and prejudice in trial proceedings; and

(E)".

(Reference is to HB 1393 as printed February 18, 2013.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1393 be amended to read as follows:

Page 1, line 10, delete "nine (9)" and insert "**eleven (11)**".

Page 1, line 16, delete "One (1) member" and insert "**Two (2) members**".

Page 1, line 17, delete "senate." and insert "**senate, not more than one (1) of whom may be affiliated with the same political party.**".

Page 2, line 1, delete "One (1) member" and insert "**Two (2) members**".

Page 2, line 2, delete "representatives." and insert "**representatives, not more than one (1) of whom may be affiliated with the same political party.**".

(Reference is to HB 1393 as printed February 18, 2013.)

PRYOR

 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1393, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"(c) The following appointed members of the committee shall serve the following initial terms:

(1) One (1) member of the senate shall be appointed for an initial term of one (1) year, and one (1) member of the senate shall be appointed for an initial term of two (2) years, as determined by the president pro tempore of the senate.

(2) One (1) member of the house of representatives shall be appointed for an initial term of one (1) year, and one (1) member of the house of representatives shall be appointed for an initial term of two (2) years, as determined by the speaker of the house of representatives.

(3) The initial term of the circuit court clerk appointed by the president of the Association of Clerks of Circuit Courts of Indiana is one (1) year.

(4) The initial term of the clerk of the circuit court for a county that does not operate under the state's automated



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judicial system is two (2) years.

As the initial terms expire, successors shall be appointed for a full three (3) year term."

Page 2, line 19, delete "(c) The" and insert "**(d) Except as provided in subsection (c) concerning the initial terms of certain appointed members, the**".

Page 2, line 19, delete "two" and insert "**three**".

Page 2, line 20, delete "(2)" and insert "**(3)**".

Page 2, line 21, after "term." insert "**A member may be reappointed.**".

Page 2, line 24, delete "meet" and insert "**meet:**

**(1) at least one (1) time per year; and
(2)".**

Page 2, line 25, after "Sec. 4." insert "**(a)**".

Page 2, line 27, delete "system." and insert "**system, including an analysis of appropriate and equitable funding, automated recordkeeping fees and record perpetuation costs, and their allocation between state and local governmental entities.**".

Page 2, delete lines 37 through 40, begin a new line double block indented, and insert:

"(D) studying the appropriate use of private sector vendors that offer similar interfacing or complementary systems; and"

Page 3, between lines 4 and 5, begin a new paragraph and insert:

"(b) The committee may employ an independent consultant to assist with its study."

Page 4, line 30, delete "Develop" and insert "**By December 31, 2013, develop**".

Page 4, line 31, delete "data with all" and insert "**data:**".

Page 4, line 32, delete "providers who request the data".

Page 4, line 32, strike "by not later than December 31,".

Page 4, line 33, delete "2013:".

Page 5, between lines 3 and 4, begin a new line block indented and insert:

"The standard protocol developed and implemented under this subdivision shall permit private sector vendors, including vendors providing service to a local system and vendors accessing the system for information, to send and receive court information on an equitable basis and at an equitable cost."

Page 5, line 32, delete "through an independent party at the expense" and insert "**in conjunction with the Indiana office of**



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technology,"

Page 5, line 33, delete "of the division of state court administration".

Page 5, line 39, delete "means making an unequivocal affirmative written" and insert "**means:**".

Page 5, delete line 40.

Page 6, line 4, delete "system, regardless of whether" and insert "**system.**".

Page 6, delete lines 5 through 6.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to HB 1393 as reprinted February 21, 2013.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0.

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