
HOUSE BILL No. 1298

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-31-1-5; IC 33-32; IC 33-33; IC 33-37; IC 33-38-10-6.

Synopsis: Circuit court clerk administrative matters. Removes the requirement that the circuit court clerk (clerk) attend court sessions. Provides that the clerk is the official custodian of all records and writings of the court. Requires the clerk, subject to the public records law, to provide copies of any records of the court in the clerk's possession to a party who requests the records. 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. 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 of up to \$3 whenever a person submits an amount that exceeds the amount the clerk is required to collect from the person, except for child support funds received 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, 2013.

Mayfield

January 23, 2013, read first time and referred to Committee on Government and Regulatory Reform.

C
o
p
y



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.

C
o
p
y

HOUSE BILL No. 1298

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 33-31-1-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The ~~clerk and~~
3 sheriff shall attend the court, and **the clerk and the sheriff shall**
4 discharge all the duties pertaining to their respective offices required
5 by law in the circuit court.

6 (b) All laws:
7 (1) prescribing the duties and liability of the officers;
8 (2) prescribing the mode of proceeding against either or both of
9 the officers for any neglect of official duty; and
10 (3) allowing fees and providing for the collection of the fees;
11 in the circuit court, extend to the probate court, as applicable.

12 SECTION 2. IC 33-32-2-9, AS ADDED BY P.L.45-2010,
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2013]: Sec. 9. (a) As used in this section, "training courses"
15 refers to training courses related to the office of circuit court clerk that
16 are ~~developed~~ **compiled** by the Association of Indiana Counties and
17 approved by the state board of accounts.



1 (b) An individual elected **or selected** to the office of circuit court
 2 clerk after ~~November 2, 2010~~; **November 1, 2010**, shall complete at
 3 least:

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

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

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

13 SECTION 3. IC 33-32-2-10 IS ADDED TO THE INDIANA CODE
 14 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 15 1, 2013]: **Sec. 10. (a) This section applies whenever the clerk is**
 16 **required to send by certified mail a document filed with a court.**

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

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

23 SECTION 4. IC 33-32-3-1 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) The clerk shall
 25 endorse the **date of filing, including the time of filing, if required,** on
 26 each writing required to be filed in the office of the clerk.

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

29 (c) **The clerk is the official custodian of all records and writings**
 30 **of the court and, subject to IC 5-14-3, shall provide copies of any**
 31 **public records in the clerk's possession to any person who requests**
 32 **the public records.**

33 ~~(d)~~ (d) The clerk shall procure, at the expense of the county, all
 34 necessary judges' appearance, bar, judgment, and execution dockets,
 35 order books, and final record books.

36 ~~(d)~~ (e) The clerk shall

37 ~~(1) attend, in person or by deputy, the circuit court of the county;~~
 38 **and**

39 ~~(2) enter in proper record books all orders, judgments, and~~
 40 **decrees of the court.**

41 ~~(e)~~ (f) Not more than fifteen (15) days after the cases are finally
 42 determined, the clerk shall enter in final record books a complete

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

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

SECTION 5. IC 33-33-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. (a) The ~~clerk and~~ sheriff shall attend the Allen superior court, and **the clerk and the sheriff shall** discharge all the duties pertaining to their respective offices as they are required to do by law in the circuit court.

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

(c) In a case in the Allen superior court based upon a violation of a city ordinance where fines or forfeitures are adjudged against a party:

- (1) the fines or forfeitures shall be paid to and collected by the clerk and regularly remitted to the city clerk of the city that issued the ordinance; and
- (2) the city clerk shall disburse the fines or forfeitures as required by law.

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

SECTION 6. IC 33-33-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. The clerk of the Bartholomew circuit court is the clerk of the Bartholomew superior courts, and the sheriff of Bartholomew County is the sheriff of the Bartholomew superior courts. The ~~clerk and~~ sheriff shall attend the courts, and **the clerk and the sheriff shall** discharge all the duties pertaining to their respective offices as they are required to do by law with reference to the Bartholomew circuit court.

SECTION 7. IC 33-33-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. The clerk of the Cass circuit court shall serve as the clerk of each Cass superior court, and the sheriff of Cass County shall serve as the sheriff of each Cass superior court. ~~They~~ **The sheriff shall** attend the courts, and **the clerk and the sheriff shall** perform the same duties relating to their offices as they are required to do with respect to the Cass circuit court.

SECTION 8. IC 33-33-19-4 IS AMENDED TO READ AS

C
o
p
y



1 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. The clerk of the
 2 Dubois circuit court shall serve as the clerk of the Dubois superior
 3 court, and the sheriff of Dubois County shall serve as the sheriff of the
 4 Dubois superior court. ~~They~~ **The sheriff** shall attend the court, and **the**
 5 **clerk and the sheriff shall** perform the same duties relating to their
 6 offices as they are required to do with respect to the Dubois circuit
 7 court.

8 SECTION 9. IC 33-33-79.2-4 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) The clerk of the
 10 Tippecanoe circuit court shall be the clerk of superior court No. 2 of
 11 Tippecanoe County, and the sheriff of Tippecanoe County shall be the
 12 sheriff of superior court No. 2 of Tippecanoe County. The ~~clerk and~~
 13 ~~sheriff shall attend court, and~~ **the clerk and the sheriff shall** discharge
 14 all the duties pertaining to their respective ~~office offices~~ as they are
 15 required to do by law with reference to the Tippecanoe circuit court.

16 (b) The judge of superior court No. 2 of Tippecanoe County shall
 17 appoint a bailiff and an official reporter for the court to serve during the
 18 court. The judge shall fix their compensation within the limits and in
 19 the manner provided by law concerning bailiffs and official court
 20 reporters. The compensation shall be paid monthly out of the treasury
 21 of Tippecanoe County, in the manner provided by law.

22 SECTION 10. IC 33-37-1-2 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. ~~As used in this~~
 24 ~~article, "Clerk" refers to any of the following:~~

25 **(1) For purposes of IC 33-37-1 through IC 33-37-11, a person**
 26 **who is any of the following:**

27 ~~(1) (A)~~ (A) A clerk of a circuit court under IC 33-32-2-1.

28 ~~(2) (B)~~ (B) The clerk of a city or town court under IC 33-35.

29 ~~(3) (C)~~ (C) The judge of a city or town court that does not have a
 30 clerk.

31 **(2) For purposes of IC 33-37-12, a person who is a clerk of a**
 32 **circuit court under IC 33-32-2-1.**

33 SECTION 11. IC 33-37-12 IS ADDED TO THE INDIANA CODE
 34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2013]:

36 **Chapter 12. Circuit Court Clerk Administrative Fee**

37 **Sec. 1. (a) This chapter applies to any amount that the clerk of**
 38 **a circuit court is required to collect from a person, including:**

39 **(1) bail;**

40 **(2) a fine;**

41 **(3) a civil penalty;**

42 **(4) a court fee, court cost, or user fee imposed by the court; or**

C
o
p
y



1 **(5) a fee for the preparation, duplication, or transmission of**
 2 **a document.**
 3 **(b) This chapter does not apply to child support funds received**
 4 **by the clerk of a circuit court under IC 33-32-4.**
 5 **Sec. 2. If the amount collected by the clerk of a circuit court is**
 6 **at least three dollars (\$3) more than the amount required, the clerk**
 7 **shall, upon the request of the person entitled to the refund:**
 8 **(1) retain the administrative fee described in section 3 of this**
 9 **chapter; and**
 10 **(2) refund the excess amount.**
 11 **Sec. 3. (a) The clerk of a circuit court may retain as an**
 12 **administrative fee an amount of up to three dollars (\$3) from the**
 13 **excess amount collected by the clerk under section 2 of this**
 14 **chapter.**
 15 **(b) The clerk shall deposit the amount retained as an**
 16 **administrative fee under subsection (a) in the clerk's record**
 17 **perpetuation fund established under IC 33-37-5-2.**
 18 **SECTION 12. IC 33-38-10-6 IS AMENDED TO READ AS**
 19 **FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) The clerk of the**
 20 **circuit court of the county in which the case is filed serves as the clerk**
 21 **of the court for a case heard by a private judge, and the sheriff of that**
 22 **county serves as the sheriff of the court for the case. The ~~clerk and the~~**
 23 **sheriff shall attend the proceedings, and **the clerk and the sheriff****
 24 **perform the same duties relating to their offices as are required for the**
 25 **circuit court of the county in which the case is filed.**
 26 **(b) The clerk of the circuit court of the county in which the case is**
 27 **filed shall provide to a private judge for each case all books, dockets,**
 28 **papers, and printed blanks necessary to discharge the duties of the**
 29 **court.**

C
O
P
Y

