

# INDIANA SUPREME COURT INDIANA OFFICE OF COURT SERVICES



## Annual Revenue Report Application Guide Revised DECEMBER 2019

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## **Indiana Courts Online Reports**

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## **COLUMN HEADING DESCRIPTIONS**

### **Column Headers**

The spreadsheet has four columns for data entry: State Level, County Level, City/Town/Township Level Funds (General & Specific), and Money to Others. The Indiana Office of Court Services (IOCS) tracks where the cost/fee/revenue is ultimately deposited. If a statute directs a clerk to distribute a fee to the County Auditor and a statute directs the County Auditor to distribute the fee to the State Auditor for deposit in a state fund, we ask the court to report the fee collected in the state level column.

### **State Level Funds (General & Specific)**

This portion of the court fee or cost is to be distributed to the State Auditor for deposit in a designated fund. Most revenues are deposited in the State General Fund but some specific funds have been created to support related services. Regardless of whether the fund is general or specific, indicate the portion of each fee to be distributed to the State.

### **County Level Funds (General & Specific)**

This portion of the court fee or cost is to be distributed to the County Auditor for deposit in a designated fund. Most revenues are deposited in the County General Fund but some specific funds have been created to support related services. Regardless of whether the fund is general or specific, indicate the portion of each fee to be distributed to the County.

### **City/Town/Township Level Funds (General & Specific)**

This portion of the court fee or cost is to be distributed to the Local Level (city or town or township) for deposit in a designated fund. Most revenues are deposited in the Local Level General Fund but some specific funds have been created to support related services. Regardless of whether the fund is general or specific, indicate the portion of each fee to be distributed to the Local Level.

### **Money to Others\*(Constable)**

#### **This column is only available to Marion County Small Claims (Township) courts**

When the claimant wants the township court filings to be served on the defendant or defendants personally, the Court charges an extra \$13 for certified mail or personal service by the Constable or bailiff. All revenues collected for certified mail (line 3) and personal service (line 4) are reported

in this column. When reporting revenues in this column, provide the recipient in the text box provided.

## **LINE ITEM DESCRIPTIONS**

The line items for the spreadsheet relate to the itemized fees charged by courts in various cases for various reasons. Most fees collected by the Clerk of the Courts or the judge are itemized but if a fee is not separately indicated, the court should report the revenue collected on Line 51, "Other," based upon the statutory distribution requirements and indicate the sources in the text box provided. Line 51 will be discussed below.

### **Line 1: Court Costs**

Court costs are the basic expense for filing a case and the basic cost assessed by the court upon a conviction in a criminal case or a judgment in an infraction or ordinance violation. There are a few cases where court costs are not charged. Examples are post conviction relief cases, certain estate cases and certain civil miscellaneous cases. If charged, the costs collected in the circuit, and superior courts are distributed to the State, County and Local General Funds in the following percentages: 70 percent (70%) to the State, 27 percent (27%) to the County and 3 percent (3%) to the Local Level General Fund. I.C. 33-37-7-2(a)(1); 33-37-7-4(a)(1); 33-37-7-6(a)(1). The costs collected in the city, town and township courts are distributed as follows: 55 percent (55%) to the State, 20 percent (20%) to the County and 25 percent (25%) to the City/Town/Township General Fund. I.C. 33-37-7-8.

The statutory costs in all courts are as follows:

Felony or misdemeanor (upon conviction): \$120.00. I.C. 33-37-4-1(a).

Post Conviction Relief (PC) cases: no filing fee. Rule PC 1 §2.

Infraction or ordinance violation (upon judgment; with some exceptions): \$70.00. I.C. 33-37-4-2(a).

Juvenile action (including CHINS, delinquency and paternity): \$120.00. I.C. 33-37-4-3(a).

Civil action (at case filing): \$100.00 (but see exempted civil actions such as juvenile matters, paternity, small claims proceedings, certain estate cases and enforcement of some infractions or ordinances). I.C. 33-37-4-6.

Small claim – all courts except Marion County Small Claims (at case filing): \$35.00; small claims service fee for additional defendants: \$10. I.C. 33-37-4-6.

Probate/trust (at case filing): \$120.00. I.C. 33-37-4-7(a).

These costs include the cost of service of process by mail with return receipt requested for one defendant, unless otherwise indicated. An additional \$25 to \$60 is charged for service of process by the Sheriff, depending on whether the action originates in Indiana or elsewhere. This additional service fee may be charged only once during the duration of the case. The Service of Process fee by the Sheriff is not reported on the Court Revenue Report. I.C. 33-37-5-15(a) and (b).

## **Lines 2 through 5 apply only to Marion County Small Claims (Township) Courts**

### **Line 2: Filing Fee and Township Docket Fee**

The filing fee and township docket fee are the basic expense for filing a small claims case in the Marion County Small Claims courts. The \$37 fee charged represents a \$5 township docket fee plus 45% of the amount charged in an infraction case or violation of ordinance case, rounding up to the next highest whole number. The revenue collected for this fee is reported in the City/Town/Township level column for deposit in the township general fund and distributed to the township trustee monthly. I.C. 33-34-8-1(a)(1); 33-34-8-1(b); 33-34-8-3(a). Effective July 1, 2015, all township small claims courts in Marion County will send \$1.50 of the docket fee to the township trustee of the designated low caseload small claims court at the end of each month. The designated low caseload small claims court is determined by the Marion County circuit judge. I.C. 33-34-8-3(c); 33-34-8-5.1.

- Line 2A – report all filing fee and township docket fees kept by the reporting court.
- Line 2B – report the total of the \$1.50 docket fee sent to the low caseload court as determined by the presiding judge over Marion County Small Claims Courts.

### **Line 3: Service of Process Fee (Certified Mail)**

The township court bailiff will charge \$13 in addition to the filing fee above for service of the court filing by certified mail. The initial service of process fee is charged when the case is initiated but additional service shall be assessed after service is made. The revenues are reported in the Money to

Others column and distributed to the bailiff or constable who executed service. I.C. 33-34-8-1(a)(2).

#### **Line 4: Service of Process Fee (Personal Service)**

The township court bailiff or township constable shall assess a \$13 fee for personal service on the defendant. The initial service fee is charged when the case is initiated. All subsequent service fees will be assessed after service is made. To the extent the constable is the person who executes the personal service, the \$13 fee is reported in the Money to Others column and provided to the bailiff or constable who executed service. I.C. 33-34-8-1(a)(3).

#### **Line 5: Redocketing Fee**

If a claimant seeks to have a case that was previously closed or dismissed reopened for resolution, the court will charge a \$5 fee to redocket the case. This fee is reported in the City/Town/Township Level Funds column and deposited in the township general fund. I.C. 33-34-8-1(a)(5).

#### **Line 6: Judicial Salaries Fee**

The fee is imposed in all cases to support judicial salaries for the court. This fee is \$15 for Small Claims cases and \$20 for all other case types.

- Circuit and superior courts report all judicial salary fee revenue on Line 6A in the state column.
- City, town, and township courts report 75 percent (75%) of all judicial salary fee revenue on Line 6A and the remaining 25 percent (25%) of the fee on Line 6B in the city/town/township fund column because these courts are allowed to retain 25% of this fee to fund local court operations.

I.C. 33-37-5-26; 33-34-8-1(a)(11); 33-34-8-3(b)(1)(E); 33-37-4-1(b)(17); 33-37-4-2(b)(13); 33-37-4-3(b)(11); 33-37-4-4(b)(7); 33-37-4-6(b)(6); 33-37-4-7(b)(6); 33-37-7-2(h)(2); 33-37-7-8(i); 33-37-1-1.

#### **Line 7: Fines and Forfeitures**

Fines and forfeitures are assessed in criminal convictions. All fines and forfeitures are reported in the state level column for deposit in the State Common School Fund. If a bail agent or surety fails to produce the defendant within 365 days, the court will declare forfeited an amount equal to 20% of the face value of the bail bond. The remaining 80% of the face value of the bail bond should be reported on Line 39 as a Late Surrender Fee. Civil penalties collected for infractions which have statewide

applicability are reported on Line 8. Civil penalties collected for local ordinances (county or city/town specific) are reported on Line 37. Indiana Constitution Article 8 §2; I.C. 27-10-2-12(d).

### **Line 8: Infraction Judgment Collections**

This category reflects funds collected as judgments for cases in which a defendant is found to have committed an infraction which has statewide applicability. In most cases these funds are deposited in the State General Fund; however, there are exceptions such as worksite speed limit judgments and youth tobacco civil penalties. The infraction judgment funds collected for these exceptions are reported on other lines of the annual revenue report (worksite speed limit judgments on Line 29 and youth tobacco civil penalties on Line 50). Civil penalties collected for local ordinances (county or city/town specific) are reported on Line 37. I.C. 34-28-5-5(c).

#### Special Instructions for Marion County ONLY:

- Beginning July 1, 2011, Marion County courts must deposit infraction judgment collections for traffic violations in a dedicated county fund. This non-reverting fund is used to pay for county commissioners appointed under I.C. 33-33-49 and for Marion County's guardian *ad litem* program. See I.C. 34-28-5-4(h) and I.C. 34-28-5-5(e).
- Marion County should report its infraction judgment collections for traffic violations in the county level column of Line 51 Other.
- Marion County should continue to report all other infraction judgment collections that are not reported on other lines of the revenue report in the state level column of Line 8.

### **Line 9: Vehicle License Judgments**

These monies are collected as infraction judgments in overweight vehicle cases. They are reported in the state level column and deposited in the State Highway Fund. I.C. 9-20-18-12(f); I.C. 33-37-5-16(2).

### **Line 10: Judicial Insurance Adjustment Fee**

This \$1 fee is collected in all civil cases and cases where the defendant has been convicted of an offense, required to pay a pretrial diversion fee, found to have violated a statute defining an infraction or found to have violated an ordinance. It is reported in the state level funds column for deposit in the State Judicial Branch Insurance Adjustment Account. I.C. 33-37-5-25; 33-34-8-1(a)(10); 33-34-8-3(b)(1)(D); 33-37-4-1(b)(16); 33-37-4-2(b)(12); 33-37-4-3(b)(10); 33-37-4-4(b)(6); 33-37-4-6(b)(5); 33-37-4-7(b)(5); 33-37-1-1; 33-37-7-2(i); 33-37-7-8(h); 33-38-5-8.2.

**Line 11: Court Administration Fee**

This \$5 fee is collected in each action in which a person is convicted of an offense, required to pay a pretrial diversion fee, found to have committed an infraction or found to have violated an ordinance and in each small claims action. The fee is reported in the state level funds column for deposit in the State General Fund, except in Marion County Small Claims courts where 60 percent (60%) of the fee (\$3) is reported in the state level fund column and deposited in the State General Fund and 40 percent (40%) of the fee (\$2) is reported in the City/Town/Township level fund column and retained for the township General Fund. I.C. 33-37-5-27; 33-34-8-1(a)(12); 33-34-8-3(b)(1)(C); 33-34-8-3(c); 33-37-4-1(b)(18); 33-37-4-2(b)(14); 33-37-4-4(b)(8); 33-37-4-6(b)(7); 33-37-4-7(b)(7); 33-37-7-2(h)(4); 33-37-7-8(g)(3).

**Line 12: Public Defense Administration Fee**

This \$5 fee is imposed for all case types. It is reported in the state level funds column. Previously, this fee was titled the Judicial Administration Fee. The revenue is deposited in the State General Fund. I.C. 33-37-5-21.2; 33-37-1-1; 33-34-8-1(a)(9); 33-34-8-3(b)(1)(B); 33-37-4-1(b)(15); 33-37-4-2(b)(11); 33-37-4-3(b)(9); 33-37-4-4(b)(5); 33-37-4-6(b)(4); 33-37-4-7(b)(4); 33-37-7-2(h)(1); 33-37-7-8(g)(1).

**Line 13: Reimbursements to DNR (Deer Replacement Fee)**

Three statutes:

I.C. 14-22-38-4 Unlawful taking or unlawful sale of deer or wild turkey

I.C. 14-22-38-5 Unlawful taking of other wild animals

I.C. 14-22-40-6 Unlawful shooting at law enforcement decoys require a court to collect reimbursements for the DNR. Reimbursement amounts are set by each statute and range from \$20 to \$1,000.

All reimbursements are deposited in the DNR Conservation Officers Fish and Wildlife Fund.

I.C. 14-8-2-318; 14-22-40-7; 14-22-40-8; 33-37-5-16; 14-22-3-3(1); 14-22-3-4.

**Line 14: Drug Abuse, Prosecution, Interdiction and Correction Fee**

All courts, including city and town courts, must assess this fee of at least \$200 and not more than \$1,000 against a person convicted of a controlled substance offense. In determining the amount of the fee, the court must consider the person's ability to pay. Twenty-five percent (25%) of the fee is reported in the state level column for deposit in the User Fee Fund and seventy-five percent (75%) is reported in the county level column for deposit in the County Drug Free Community Fund. I.C. 34-48-4; 33-37-4-1(b)(5); 33-37-5-9; 33-37-7-2(b)(1); 33-37-7-2(c)(1); 5-2-11-2; 35-48-4.

**Line 15: Countermeasures Fee (A.K.A. Alcohol and Drug Countermeasures Fee)**

In each action in which a person is found to have committed a OVWI offense or a person who has been adjudicated a delinquent for an act that would be a OVWI if committed by an adult, **and** the person's driving privileges are suspended by the court or BMV as a result of the finding, the Clerk shall collect an Alcohol and Drug Countermeasures Fee of \$200. This fee is also charged as part of some plea agreements involving OVWI offenses. Twenty-five percent (25%) of the fee is reported in the state level column for deposit in the User Fee Fund and seventy-five percent (75%) is reported separately in the county level column for deposit in the County Drug Free Community Fund. I.C. 9-30-5; 33-37-5-10; 33-37-4-1(b)(6); 33-37-7-2(b)(2); 33-37-7-2(c)(2); 33-37-4-2(b)(4); 33-37-4-3(b)(5); 5-2-11; 33-37-9-4; 9-27-2-11; 9-21-8-50; 9-21-8-52; 7.1-5-1-3; 7.1-5-1-6.

### **Line 16: Child Abuse Prevention Fee**

This \$100 fee is assessed against a defendant who is found guilty of certain criminal offenses against the person or offenses (listed in I.C. 33-37-5-12(1)) involving a victim who is less than eighteen years of age. As of July 1, 2012, 100 percent (100%) of the fee goes to the State User Fee Fund. The county portion column is still available to report any fees going to the county before the statute changed in 2012. I.C. 33-37-5-12; 33-37-4-1(b)(7); 33-37-7-2(b)(3).

### **Line 17: Domestic Violence Prevention and Treatment Fee**

This \$50 fee is charged in each criminal action in which the defendant is found guilty of murder, causing suicide, voluntary manslaughter, reckless homicide, battery/domestic battery, strangulation, or rape and the victim is the defendant's spouse, former spouse, living as if the defendant's spouse, or if the victim has a child in common with the defendant. This fee is sometimes referred to as the "Family Violence Fee". The fee total is reported in the state level column for deposit in the State User Fee Fund. I.C. 33-37-5-13; 33-37-7-2(b)(4); 33-37-4-1(b)(8).

### **Line 18: Pretrial Diversion Fee**

The prosecuting attorney may withhold the prosecution of a person charged with a **misdemeanor and certain Level 6 and Level 5 felonies (see I.C. 33-39-1-8)**, if the person agrees to conditions of a pretrial diversion program offered by the prosecutor. The accused is charged two types of fees in a pretrial diversion:

- \$120 as a Deferred Prosecution Fee. The Deferred Prosecution Fee is mandatory. This fee is included on Line 1 with the other court costs collected by the court. It should **not** be included on Line 18. This fee is distributed to the State/County/Local Level as normal (70%/27%/3% if collected by county court and 55%/20%/25% if collected by local court), and
- The Pretrial Diversion Fee which consists of a \$50 initial user's fee and a \$10 monthly fee assessed for each month the accused remains in the pretrial diversion program. The initial user's fee and monthly fee are collectively referred to in the Indiana Code as the Pretrial Diversion Fee. The initial and monthly fees may be waived (the agreement with the prosecutor "may include" various provisions including fee requirements. See I.C. 33-37-1-8(e)).

The total collected for the initial user's fee and monthly fees are reported on Line 18 in either the county or local column, depending on the court collecting the fee, for deposit in the County or City/Town User Fee Fund.

The State Board of Accounts has confirmed that it considers deferral and pretrial diversion fees collected by city/town courts to be local level revenue. The fees deposited in the County User Fee Fund may ultimately be deposited in a County Pretrial Diversion Program Fund if one has been established by the County Auditor.

The court must also assess the **Automated Record Keeping Fee** in pretrial diversion cases.

Beginning in 2013 the Automated Record Keeping fees from pretrial diversion cases will be reported on line 31B of the revenue report. See the instructions for Line 31 for further information.

I.C. 33-39-1-8(d) and (h); 33-37-4-1(b)(10), 33-37-4-1(c) and (d); 33-37-7-2(a); 33-37-7-8(a), (b) and (c); 33-37-8-3(b); 33-37-8-5(b); 33-37-8-6(b); 33-37-8-7; 33-37-5-17; 33-37-7-4(a)(7); 33-37-7-6(a)(7); 33-37-4-2(b)(6); 33-37-8-4(b).

#### **Line 19: Deferral Program Fee**

A Deferral Program Fee is assessed in lieu of the standard court costs and judgments when the county prosecutor or attorney for the municipal corporation has set up a deferral program for **infractions and ordinance violations**. The defendant may be charged these fees:

- An initial user's fee not to exceed \$52 plus
- A monthly fee not to exceed \$10.
- If the action involves a moving traffic violation, the defendant is also assessed a court cost of \$70. Court costs should be reported on Line 1, not Line 19.

The initial user's fee and the monthly fee are collectively referred to in the Indiana Code as the Deferral Program Fee.

The Deferral Program Fee is reported in either the county or local level column, depending upon the court collecting the fee. The State Board of Accounts has confirmed that it considers deferral and pretrial diversion fees collected by city/town courts to be local level revenue. I.C. 33-37-8-5(c) directs the County Auditor to deposit \$2 of each Deferral Program Fee to the Jury Pay Fund with the remaining amount deposited to the County User Fee Fund. I.C. 33-37-8-3 directs the fiscal officer of the city or town to deposit the Deferral Program Fee to the City or Town User Fee Fund.

The court must also assess the **Automated Record Keeping Fee** in deferral program cases.

Beginning in 2013 the Automated Record Keeping fees from deferral program cases will be reported on line, 31B of the revenue report. See the instructions for Line 31 for further information.

I.C. 34-28-5-1(g) and (h); 33-37-4-2(c)(3) and (e); 33-37-7-2(a); 33-37-7-8(a); 33-37-8-3(b)(4); 33-37-8-5(b)(6) and (c); 4-6-12-9; 33-37-8-4; 33-37-8-6(b).

**Line 20: Problem Solving Court Services Fee (Drug Court Fee or Reentry Court Fee)**

In 2010, the Drug Court and Reentry Court Fees were abolished and replaced with the Problem-Solving Court Services Fee. The Problem-Solving Court Services Fee consists of the monthly fee, the administration fee and any fees for problem solving court services adopted by local court rule. The monthly fee can vary by court provided the fee does not exceed the \$50 monthly maximum set by the Indiana Problem Solving Courts Committee. The administration fee, which problem-solving courts may require eligible individuals to pay, may not exceed \$100 for initial Problem-Solving court services. Problem Solving Courts may also adopt fees for other problem-solving court services, such as chemical testing fees or transfer fees, by local rule provided these local fees are consistent with the range of fees established by the Board of Directors of the Judicial Conference of Indiana. All problem-solving court services fees collected should be reported on this line. I.C. 33-37-5-24; 33-23-16-23; 33-37-8-5(b)(8) (Version b); 33-37-8-3(b)(5) (Version b).

**Line 21: Pro Bono Legal Services Fee**

Effective July 1, 2012 but before July 1, 2022 this \$1 fee is assessed in each civil action, small claims action and probate action that requires payment of filing fees/costs. Semiannually the Clerk distributes this fee to the State Auditor for transfer to the Indiana Bar Foundation to be used by the foundation to assist or establish approved *pro bono* legal services programs. I.C. 33-37-4-6(b)(8); 33-37-4-6(b)(12); 33-37-4-7(b)(8); 33-37-5-31, 33-37-7-2(n); 33-37-7-8(j).

**Line 22: Adult Probation User and Administration Fees**

This category reflects the administration fee and user fees, both initial and monthly, charged to adults placed on probation after a conviction of a felony or misdemeanor. These fees are mandatory for felony cases but optional for misdemeanors. A person placed on probation for more than one crime may be required to pay more than one initial probation user's fee; however,

he/she cannot be required to pay more than one monthly probation user's fee.

In felony cases the court **must** order an administrative fee of \$100. In addition, an initial probation user's fee of no less than \$25 and no more than \$100 and a monthly probation user's fee of no less than \$15 and no more than \$30 must be paid for each month the person remains on probation.

In misdemeanor cases the court **may** order an administrative fee of \$50. The court may also order an initial probation user's fee of no more than \$50 and a monthly probation user's fee of at least \$10 but no more than \$20.

A court may order a person to pay probation user fees that exceed the statutory maximums if that person was placed on probation in another state and moved or transferred to Indiana; the other state allows a higher probation user's fee than Indiana's maximum, and the probation user's fees the Indiana court orders the person to pay does not exceed the maximum amount allowed in the other state.

The fees are deposited in the County Supplemental Adult Probation Services Fund that is used for probation services.

The administrative fees must be collected before the initial or monthly probation user's fees.

The clerk shall transfer all fees (administrative, initial and monthly) to the County Treasurer for deposit to the County Supplemental Adult Probation Services Fund; however, if these fees are collected by the Clerk of a city or town court or the Probation Department of a city or town, and the city or town has an adult probation services program, then the fees are transferred to the fiscal officer for deposit to the Local Supplemental Adult Probation Services Fund.

The Clerk collecting these fees may keep up to 3 percent (3%) of the fee to defray the administrative costs of collecting the fee. This 3% is deposited in the Clerk's Record Perpetuation Fund. The Clerk may also be asked to transfer an additional 3% of the Probation User Fee to the County, City or Town General Fund depending upon the requesting fiscal officer.

The \$75 Intra-State Probation Transfer fee is reported on Line 49.

I.C. 35-38-2-1; 35-38-2-1.5.

Pre-Trial Services fees collected should also be included on Line 22.

### **Line 23: Juvenile Probation User Fee and Administration Fees**

A court may order a juvenile and/or the parent of a juvenile who is placed on supervision to pay an initial user fee from \$25 to \$100 and a monthly user fee from \$10 to \$25. If a delinquent child is supervised, the administrative fee is \$100, which is collected before the other probation user fees. A delinquent child placed on probation for more than one delinquent act may be required to pay more than one initial probation user's fee; however, he/she cannot be required to pay more than one monthly probation user's fee.

These fees are deposited in the County Supplemental Juvenile Probation Services Fund. The Clerk may keep up to 3 percent (3%) to defray administrative costs (deposited in the Clerk's Record Perpetuation Fund). The Clerk may also be asked to transfer an additional 3 percent (3%) of the Probation User Fee to the County, City or Town General Fund depending upon the requesting fiscal officer.

A court may order a person to pay probation user fees that exceed the statutory maximums if that person was placed on probation in another state and moved or transferred to Indiana; the other state allows a higher probation user's fee than Indiana's maximum, and the probation user's fees the Indiana court orders the person to pay does not exceed the maximum amount allowed in the other state.

I.C. 31-40-2-1(b) and (c); 31-40-2-1.5; 31-40-2-1.7(d).

### **Line 24: Deposits to Supplemental Public Defender Fund**

Four statutes address when a defendant may be ordered to reimburse the county for counsel provided at public expense. All four statutes require the Clerk to deposit the monies received to the Supplemental Public Defender Services Fund. All courts, other than city courts in Lake County, should report all deposits to the Supplemental Public Defender Services Fund in the county column. See I.C. 33-40-3-1. Although a city court may have provided for an indigent defendant's representation out of its own budget, all city courts, other than those in Lake County, must collect and deposit the fee assessed under I.C. 35-33-7-6 and all other reimbursements for public defense expenses to the County Supplemental Public Defender Services Fund. Only Lake County city courts are authorized by statute to have Local Supplemental Public Defender Services Funds. See IC. 33-40-3-10.

At the initial hearing, after the defendant is declared indigent but able to pay costs of representation, the court shall order the defendant to pay a fee of \$100 for a felony or \$50 for a misdemeanor. Although the statute contemplates the court ordering this fee at the initial hearing, a court is not

prohibited from imposing the fee at other stages in the proceeding. See I.C. 35-33-7-6.

At any stage in the prosecution for a felony or misdemeanor, if the court finds a person or the person's parent, if the person is a child alleged to be a delinquent child, has the ability to pay public defense fees, the court will require the person to pay reasonable attorney's fees and costs, provided the fees and costs do not exceed the actual costs of representation. See I.C. 33-40-3-6.

If the court finds a convicted person is not indigent, it shall order the person to pay the entire amount of costs at the time sentence is pronounced, at some later date, or the person may be ordered to pay specified parts of the costs at designated intervals. The court may suspend payment of costs until the convicted person has completed all or part of the sentence. If the court suspends payment of costs, it must conduct an indigency hearing at the time costs are due. See I.C. 33-37-2-3.

The court can deduct:

- fines, costs, fees and restitution upon conviction, and
- the publicly paid costs of representation regardless of conviction

from cash bonds or the cash deposit on a surety bond (but not bail bonds or real estate bonds), provided the defendant or each person who makes a deposit on behalf of the defendant, executes an agreement to the attachment of the bond upon disposition of the case. The Clerk also retains the Special Death Benefit Fee which is reported on Line 47. Any amount remaining after payment of these costs is remitted to the defendant or person who made the deposit on behalf of the defendant. See I.C. 35-33-8-3.2.

### **Line 25: Civil Action Service Fee**

The plaintiff in a civil action pays this fee when other civil costs are paid, if applicable. When defendants file cross complaints and name additional defendants (including third party defendants) beyond the original plaintiff, the defendant/cross claimant is also charged the Civil Action Service Fee. This fee is not collected when service is made by publication in accordance with Indiana Trial Rule 4.13 or in actions filed using the Indiana electronic filing system. Depending upon the court collecting, the fee is reported in the county or local level column, to be deposited in the relevant general fund. I.C. 33-37-5-28(b)(1); 33-37-7-2(j); 33-37-4-4(b)(9).

**Line 26: Small Claims Service Fee**

The plaintiff in a small claims action pays this fee when other civil costs are paid. This fee may not be assessed in an action filed using the Indiana electronic filing system. This fee is not assessed in civil, criminal, infraction, ordinance violation, probate, or juvenile cases. The Clerk's office charges \$10 per each additional named defendant after the first named defendant in a case, including those added after the time of filing. All courts, other than the Marion County Small Claims Courts, will report this fee in the county column, to be deposited in the relevant general fund. Only Marion County Small Claims Courts will report this fee in the local column. **City and town courts do not have jurisdiction over small claims actions and should not be charging this fee.** I.C. 33-37-4-6(a)(1)(B); 33-37-4-6(a)(2); 33-37-7-2(g)(1); 33-37-7-8(f)(2); 33-35-3-9(c).

**Line 27: Additional Garnishee Defendants Service Fee**

Collected from the party filing the civil action for each garnishee named in excess of three garnishees. When a garnishee is added in excess of three garnishees, this fee is collected from the party adding the additional garnishee(s). This fee is not collected when service is made by publication in accordance with Indiana Trial Rule 4.13 or in actions filed using the Indiana electronic filing system. Garnishees can include banks, employers or other entities that control the defendant's money. Any combination can be used to reach three. Depending upon the court collecting, the fee is reported in the county or local level column, to be deposited in the relevant general fund.

I.C. 33-37-4-4(b)(10); 33-37-5-28(b)(3) or (4); 33-37-7-2(k).

**Line 28: Highway Worksite Zone Fee**

The Clerk must collect a fifty-cent (\$.50) Highway Worksite Zone Fee in each traffic offense, including traffic infractions, misdemeanors and ordinance violations. If the offense involves exceeding a worksite speed limit or failure to merge properly in the work zone and the judge orders to the Clerk to collect the fee for exceeding a worksite speed limit or failure to merge, the fee is \$25.50. The fee total is reported in the state level column for deposit in the State User Fee Fund. I.C. 33-37-4-1(b)(9); 33-37-4-2(b)(5); 33-37-5-14, 33-37-7-2(b)(5); 33-37-7-8(d)(3); 9-30-3-5; 9-20-1-1; 9-20-4-1.

**Line 29: Worksite Speed Limit Judgment (formerly named Construction Work Zone Fee)**

The Indiana Department of Transportation, the Indiana Finance Authority, or a local authority may establish temporary maximum speed limits in their respective jurisdictions and in the vicinity of a worksite. These temporary

speed limits must be at least 10 mph below the maximum established speed limit, cannot exceed 45 mph and may only be enforced if workers are present in the immediate vicinity of the worksite or if the establishing authority determines the safety of the traveling public requires enforcement. The establishing authority shall post signs notifying the traveling public of the temporary maximum speed limits.

Judgments range from \$300 to \$1,000 depending on whether the person charged with the infraction violation has committed prior infractions of violating a speed limit within the previous three years.

The funds collected as judgments for the infraction of violating a worksite speed limit will be reported in the state level and shall be transferred to the Indiana Department of Transportation.

I.C. 9-21-5-11.

### **Line 30: Safe School Fee**

In each criminal action in which a person is convicted of an offense in which the possession or use of a firearm was an element of the offense, the court must assess a Safe School Fee of at least \$200 but not exceeding \$1,000, based on the defendant's ability to pay. Before 7/1/2019, the fee total is reported in the state level column for deposit in the State User Fee Fund. I.C. 33-37-5-18, 33-37-7-2(b)(6); 33-37-7-8(d)(4).

Beginning 7/1/2019 seventy-five percent (75%) of the Safe School fee collected by the Clerk of the Circuit is reported in the state level column for deposit in the State User Fee Fund. The Clerk of the Circuit Court shall report the remaining twenty-five percent (25%) in the county level column for deposit in the County General Fund. I.C. 33-37-7-2(b)(6), 33-37-7-2(g)(3)

Beginning 7/1/2019 seventy-five percent (75%) of the Safe School fee collected by the Clerk of the City and Town Court is reported in the state level column for deposit in the State User Fee Fund. The remaining twenty-five percent (25%) of the Safe School fee is reported in the city/town/township level column for deposit in the City or Town General Fund. I.C. 33-37-7-8(d)(4), 33-37-7-8(f)(4)

### **Line 31: Automated Recordkeeping Fee**

This fee applies to all cases. Beginning July 1, 2017, the fee is \$20. Pretrial diversions and deferrals automated record keeping fee remains at \$5.

The court reports this fee in the state level column for deposit in the Judicial Technology and Automation Committee Fund. Legislation passed in 2011 allowed any county not operating under the state's automated judicial case management system (the "Odyssey" system) to deposit a portion of this fee in the Clerk's Record Perpetuation Fund; however, this provision sunset May 7, 2015. **Note: For those courts that are not on the Odyssey system, who are recording fees accessed before May 7, 2015 and need to deposit a portion of the fee into the Clerk's Record Perpetuation Fund, the deposit of that fee should be recorded on the Document Fee line (line 41) in the County Level Funds Column.**

This fee is reported on two lines, 31A and 31B.

- On Line 31A report 100% of the Automated Recordkeeping Fees collected in all cases **other than** deferral program and pretrial diversion cases. These fees are reported in the state level column and will be deposited in the Judicial Technology and Automation Committee fund.
- On Line 31B report 100% of the Automated Recordkeeping Fees collected from deferral program and pretrial diversion cases. These fees are reported in the state level column and will be deposited in the Homeowner Protection Unit Account.  
I.C. 33-37-5-21; 33-37-7-2(a); 33-37-7-8(d)(5); 33-37-5-2(a)(5); 33-37-7-2(b)(7); I.C. 33-37-7-2(m)(2).

### **Line 32: DNA Sample Processing Fee**

This \$3 fee is assessed to anyone convicted of a felony or misdemeanor, found to have committed an infraction or ordinance violation or required to pay a Pretrial Diversion Fee. Money collected from this fee is reported in the state level funds column, for deposit in the DNA Sample Processing Fund. I.C. 33-37-5-26.2; 33-37-4-1(b)(19); 33-37-7-2(i)(3); 33-37-7-8(g)(2); 33-37-7-9(b)(9); 10-13-6-9.5

### **Line 33: Sexual Assault Victims Assistance Fee**

This fee is assessed in all criminal actions where the defendant is convicted of rape, criminal deviate conduct, child molesting, child exploitation, vicarious sexual gratification, child solicitation, child seduction, sexual battery, sexual misconduct with a minor as a Class A or Class B felony, or

incest. As of July 1, 2014, the fee is at least \$500 but no more than \$5,000. The court reports this fee in the state level for deposit in the Sexual Assault Victims Assistance Account. I.C. 33-37-5-23; 33-37-7-2(e); 5-2-6-23(j).

#### **Line 34: Support Fee**

This category reflects amounts collected through a \$55 yearly fee charged in cases where a final court order requires a party to pay support or maintenance payments through the Clerk of the Court or the State Central Collection Unit. The fee goes to the County General Fund if collected by the County Clerk, or the State General Fund if collected by the State Central Collection Unit. I.C. 33-37-5-6; 33-37-7-2(f).

#### **Line 35: Guardian *Ad Litem* or Special Advocate Fee**

The Juvenile division of the trial court may order the parent or estate of a child for whom a *guardian ad litem* or a special advocate is appointed to pay up to \$100 for the service. The money is paid to the county probation department and is deposited to either the GAL or CASA fund, depending upon the appointment. The county fiscal body uses the money when providing these services. I.C. 31-40-3-1; 31-40-3-2.

#### **Line 36: Alternative Dispute Resolution Fee (ADR)**

This \$20 fee applies only to counties with an established and approved ADR plan. The fee is collected from the party filing a petition for legal separation, paternity or dissolution of marriage and is reported in the county level funds column, for deposit in the Alternative Dispute Resolution Fund. I.C. 33-23-6-1; 33-23-6-2.

#### **Line 37: Civil Penalties for Local Ordinance Violations**

This category reflects amounts collected as judgments for local ordinance violations. These amounts are reported in the county and local level columns based on whether the ordinance is countywide or a city/town ordinance, for deposit in the relevant general fund. **This category does not include civil penalties for local ordinance violations collected by a Municipal Ordinance Violations Bureau. Ordinance violations handled by municipal ordinance violations bureaus are not court cases and therefore the penalties collected are not court revenue.** I.C. 33-37-4-2; 33-36-3-7.

**Line 38: Bond Administration Fee**

This category reflects amounts collected through a fee charged to defendants posting bond. When a defendant executes a cash bail bond with the Clerk, 10 percent (10%) or \$50.00, whichever is less, may be retained as the administrative fee regardless of the disposition of the case. This fee goes to the County General Fund or Local General Fund if collected in a city or town court. I.C. 35-33-8-3.2(a)(2).

**Line 39: Late Surrender Fee**

When a bonded defendant fails to appear, a late surrender fee based on a percent of the value of the bond is assessed against the bondsman. Fifty percent (50%) of this fee is deposited in the Police Pension Trust Fund (local level column) and fifty percent (50%) is deposited in a County Extradition Fund (county level column). I.C. 27-10-2-12(c) and (i); 35-33-8-7; 36-8-10-12; 35-33-14-5.

**Line 40: Late Payment Fee**

This fee is imposed if the defendant, convicted of a criminal action, ordinance violation, infraction, or delinquent act, fails to pay the costs, fines or civil penalties to the Clerk by the deadline set by the court. A court can suspend the late payment fee if the court finds that the plaintiff or defendant has demonstrated good cause for failure to make timely payment of the fee. This fee of \$25 is set by local rule and is distributed to the County Auditor or local fiscal officer, depending on the collecting court, and deposited in the County or Local General Fund depending on the collecting court; however, if the fee is collected by the circuit court, a local ordinance may provide 40 percent (40%) of late fees will be deposited in the Clerk's Record Perpetuation Fund and 60 percent (60%) in the County General Fund. I.C. 33-37-5-22; 33-37-7-8(f)(1); 33-37-5-2(a)(3); 33-37-7-2(d).

**Line 41: Document Fee**

This category reflects a \$1 to \$3 fee per page, collected by the Clerk for copying, preparing and certifying documents or transcripts. This fee goes to the County Auditor or city or town fiscal authority, depending upon the court in which it is collected, reported in the county or local level column for deposit to the relevant general fund. I.C. 33-37-5-3; 33-37-5-4; 33-37-5-5; 33-37-5-1.

**Line 42: Document Storage Fee**

The Clerk collects this fee in every action for maintaining court records. This fee is currently \$5. By statute, this fee will decrease to \$2 on June 30, 2022. Money collected from this fee is deposited into the Clerk's Record Perpetuation Fund, which may be used by clerks for the preservation of records or for the improvement of record keeping systems and equipment. It is reported in the county or local level column depending on the reporting court. I.C. 33-37-5-20; 33-37-5-2(a)(2).

**Line 43: Marijuana Eradication Program Fee**

In any conviction relating to controlled substances in a county with a Weed Control Board, the court may assess up to \$300 for this fee. The fee total is reported in the county level column for deposit in the County User Fee Fund. I.C. 33-37-5-7; 35-48-4; 15-16-7-8; 33-37-8-5(b)(3).

**Line 44: Jury Fee**

This \$2 fee is collected by the Clerk when a defendant is found to have committed a crime, violated a statute defining an infraction or violated an ordinance of a municipal corporation. City courts can conduct jury trials and the Clerk of the city court (or judge if there is no clerk) should collect the Jury Fee. All jury fees collected from all courts should be reported in the county column. No jury fees should be reported in the local column. If the Clerk certifies to a county fiscal body the amount of jury fees collected, the county fiscal body will direct the Auditor to transfer the amount to the Jury Pay Fund. I.C. 33-37-5-19; 33-37-8-5(b)(7); 33-37-8-8; 33-37-11-2; 33-35-5-5.

**Line 45: Alcohol & Drug Services Fee**

If a county has established an alcohol and drug services program, this fee may be collected by a schedule adopted by the court (including city and town courts) in criminal, infraction and ordinance violations. It is set by court rule and may not exceed \$400. Depending upon the court collecting, the court reports this fee in the county or local level column to be deposited in the relevant user fee fund. I.C. 33-37-5-8(b); 12-23-14-16; 33-37-8-5(b)(4); 33-37-8-3(b)(2); 33-37-4-1(b)(3); 33-37-4-2(b)(2).

**Line 46: Law Enforcement Continuing Education Program Fee**

This is a \$4 fee that is charged in each criminal conviction and each infraction and ordinance violation. Depending upon the court collecting, the court reports this fee in the county or local level column to be deposited in

the relevant user fee fund. I.C. 33-37-5-8(c); 33-37-8-5(b)(5); 33-37-8-3(b)(3); 33-37-4-1(b)(4); 33-37-4-2(b)(3).

**Line 47: Special Death Benefits Fee**

When the Clerk or Sheriff collects bail, he or she shall remit \$5 to the County Auditor for deposit in the Special Death Benefit Fund by the trustees of the Public Employees' Retirement Fund. This fee is required in addition to the Bond Administrative Fee. Prior versions of this manual allowed this fee to be reported in the county or local column; however, all amounts collected for the Special Death benefits Fee are to be remitted to the trustees of the Public Employees' Retirement Fund, a state level fund so the county and local columns are no longer available. I.C. 35-33-8-3.2(a) and (d); 5-10-10-5(a).

**Line 48: Interest on Investments**

This category reflects income generated through investments of various funds' monies. Depending on the court, the interest is reported in the relevant column and deposited into the fund that generated the income. I.C. 5-13-9; 5-13-10.5-2.

**Line 49: Intra-State Transfer Probation Fee**

A probationer who applies to have supervision transferred from one county to another within the state of Indiana pays a \$75.00 transfer fee to the receiving court. The receiving court may waive this fee if the offender is indigent. The entire fee is deposited in the receiving county's Supplemental Adult Probation Services Fund. Indiana Rules of Criminal Procedure 2.3(D).

**Line 50: Youth Tobacco Civil Penalty**

The Youth Tobacco Civil Penalty is collected according to I.C. 7.1-3-18.5-6, 7.1-3-18.5-7, 24-3-5-5(c), 24-3-5-8, 35-46-1-10, 35-46-1-10.2, 35-46-1-11.5, 35-46-1-11.7 or 35-46-1-11.8. The Clerk distributes these funds to the State Auditor for deposit to the Richard D. Doyle Youth Tobacco Education and Enforcement Fund. I.C. 7.1-6-2-6.

**Line 51: Other**

Courts report other fees collected that are not reflected in the separate categories above including:

- Monies collected through grants should be included but do not include trust fund collections or marriage license fees.

- Child Restraint fees and First Offender fees are collected here.

Note: these items are not court revenue:

Marriage license fees and service of process fee by Sheriff.

If fees are reported on this line, please specify the sources of the reported monies in the text box provided. Combine all monies for each column and indicate in the text box all the sources in a list. This helps IOCS determine whether to add another fee to the spreadsheet.

## **GRAND TOTALS**

After Line 51, the system will automatically tally each column. The user cannot enter data in these boxes.

Please contact the Court Technology helpdesk (1-888-275-5822) if you have difficulties submitting your report or discover an error after submission to State Court Administration.

## **FOOTNOTES**

On the worksheet and the entry screens, you will see several fees have one asterisk or two asterisks.

- Those fees with one asterisk represent revenues that are deposited in the State User Fee Fund in accord with I.C. 33-37-7-2(b).
- Those fees with two asterisks represent revenues that are deposited in the County or Local User Fee Funds in accord with I.C. 33-37-8-5 or I.C. 33-37-8-3.
- Line 51 "Other" is followed by three asterisks. On the worksheet, a line is provided for explanation. On the system, a text box is provided. List the sources for the revenues in the box. It is recommended that you subdivide the entries by column heading. (i.e. state revenues, county revenues, local revenues, money to others).