



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1141 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 courts and court officers.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 9-33-4 IS ADDED TO THE INDIANA CODE AS
- 6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 2019]:
- 8 **Chapter 4. Traffic Amnesty Program**
- 9 **Sec. 1. This chapter does not apply to the following:**
- 10 (1) A person with a child support arrearage, unless the person
- 11 has been making the person's required child support
- 12 payments for at least six (6) months preceding the date the
- 13 person files the petition for traffic amnesty.
- 14 (2) A person with an outstanding arrest warrant.
- 15 (3) A person sentenced to pay restitution to the victim of a
- 16 crime, if the person is not current with the person's required
- 17 payments.
- 18 **Sec. 2. This chapter applies to the following:**
- 19 (1) An unpaid judgment for an infraction described in this
- 20 title that relates to the operation of a motor vehicle, if the
- 21 infraction was committed before January 1, 2017.
- 22 (2) A driving privileges reinstatement fee (as described in
- 23 IC 9-25-6-15), which a person with a suspended driver's
- 24 license is or would be required to pay to reinstate the person's
- 25 driver's license, if the person's driver's license was suspended
- 26 before January 1, 2017.
- 27 (3) Any court costs, administrative fees, late fees, or other fees
- 28 imposed on a person in connection with an unpaid judgment

or fee described in subdivision (1) or (2).

Sec. 3. The following definitions apply throughout this chapter:

(1) "Proof of financial responsibility" has the meaning set forth in IC 9-25-2-3.

(2) "Qualified person" means a person to whom this chapter applies who owes unpaid fees or is or would be required to pay a driving privileges reinstatement fee to obtain a valid driver's license.

(3) "Unpaid fees" means a judgment, fee, or cost described in section 2 of this chapter, whether already owed or required to be paid to obtain driving privileges.

Sec. 4. (a) A qualified person may seek a reduction in the person's unpaid fees by filing a verified petition for traffic amnesty in a circuit or superior court in the county in which the violation giving rise to the unpaid fees was committed. A petition filed under this section must be filed after December 31, 2019, and before July 1, 2021. The petition must include the following:

(1) The person's full name and all other legal names or aliases by which the person is or has been known.

(2) The person's date of birth.

(3) The case number or court cause number of the relevant violations.

(4) An affirmation that the person:

(A) does not owe a child support arrearage or, if the person owes a child support arrearage, has been making the person's required child support payments for at least the preceding six (6) months;

(B) does not have an outstanding arrest warrant; and

(C) was not sentenced to pay restitution to the victim of a crime or, if the person was sentenced to pay restitution, is current with the person's required payments.

(5) The person's:

(A) Social Security number; and

(B) driver's license number.

(6) The date of the violation.

(7) If the person has an income level below one hundred twenty-five percent (125%) of the federal income poverty level, a:

(A) statement of the person's income and the number of dependent children the person has, if applicable; and

(B) copy of the person's most recent tax return or other documentary evidence establishing the person's income and number of dependent children.

(b) The person may include in a petition filed under this section any other information that the person believes may assist the court.

(c) A person who files a petition under this section shall file the petition under the court cause number of the infraction. The

1 person is not required to pay the filing fee required in civil cases.

2 (d) The person shall serve a copy of the petition upon the
3 prosecuting attorney in accordance with the Indiana Rules of Trial
4 Procedure.

5 (e) The prosecuting attorney may reply to the petition not later
6 than thirty (30) days after receipt of the petition. If the prosecuting
7 attorney fails to timely reply to the petition, the prosecuting
8 attorney has waived any objection to the petition.

9 (f) If a person wishes to receive traffic amnesty for infractions
10 committed in different counties, the person must file a separate
11 petition in each county in which a violation was committed.

12 (g) A petition filed under this section is not an admission of guilt
13 or liability.

14 Sec. 5. (a) If the prosecuting attorney does not object, or has
15 waived objection to the petition under section 4 of this chapter, the
16 court may grant the petition for traffic amnesty without a hearing.

17 (b) The court may summarily deny a petition if the petition does
18 not meet the requirements of this chapter, or if the statements
19 contained in the petition demonstrate that the petitioner is not
20 entitled to relief.

21 (c) If the prosecuting attorney objects to the petition, the
22 prosecuting attorney shall file the reasons for objecting to the
23 petition with the court and serve a copy of the objections on the
24 petitioner at the time the prosecuting attorney objects to the
25 petition. The court shall set the matter for hearing not earlier than
26 sixty (60) days after service of the petition on the prosecuting
27 attorney.

28 Sec. 6. (a) The court shall grant a petition for traffic amnesty if
29 the petitioner proves by a preponderance of evidence that the:

30 (1) person is a qualified person; and

31 (2) violation giving rise to the unpaid fees was committed
32 before January 1, 2017.

33 (b) Except as provided in subsection (c), if the court grants a
34 petition for traffic amnesty, the court shall issue an order reducing
35 the amount of unpaid fees owed by the person by fifty percent
36 (50%). Except as provided in subsection (d), to the extent some or
37 all of the unpaid fees consist of a driving privileges reinstatement
38 fee, the court shall specify in its order that the petitioner is entitled
39 to driving privileges reinstatement after:

40 (1) paying fifty percent (50%) of the otherwise required
41 driving privileges reinstatement fee to the bureau;

42 (2) providing proof of financial responsibility to the court;
43 and

44 (3) the person is determined not to be otherwise ineligible to
45 have the person's driving privileges reinstated.

46 (c) If the person establishes that the person has an income level
47 below one hundred twenty-five percent (125%) of the federal

income poverty level, and if the court grants a petition for traffic amnesty, the court shall issue an order reducing the amount of unpaid fees owed by the person by eighty percent (80%). Except as provided in subsection (d), to the extent some or all of the unpaid fees consist of a driving privileges reinstatement fee, the court shall specify in its order that the petitioner is entitled to driving privileges reinstatement after:

(1) paying twenty percent (20%) of the otherwise required driving privileges reinstatement fee to the bureau;

(2) providing proof of financial responsibility to the court; and

(3) the person is determined not to be otherwise ineligible to have the person's driving privileges reinstated.

(d) This subsection does not apply to a driver's license reinstatement fee or other fees owed to the bureau. Instead of requiring that a person pay the remaining fifty percent (50%) (under subsection (b)) or twenty percent (20%) (under subsection (c)) of unpaid fees in total, the court may establish a payment plan to allow the person to pay the remaining fifty percent (50%) or twenty percent (20%) of unpaid fees in installments, as determined by the court. If the person fails to make payments as required, the court may suspend the person's driver's license.

(e) If the court establishes a payment plan under subsection (d), the person shall pay the fifty dollar (\$50) traffic amnesty installment fee under IC 33-37-5-34.

(f) The court shall transmit a copy of its order to the bureau in a form and manner prescribed by the bureau. The court shall include in its order a statement that the order is not a conviction, finding of guilt, or finding of liability.

(g) The grant or denial of a petition under this chapter is an appealable final order.

SECTION 2. IC 33-37-5-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 34. (a) The clerk shall collect a fifty dollar (\$50) traffic amnesty installment fee from every person permitted to pay unpaid fees on a payment plan under IC 9-33-4-6(d).

(b) This section expires July 1, 2021.

SECTION 3. IC 33-37-7-2, AS AMENDED BY P.L.39-2017, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: 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 worksite 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) One hundred percent (100%) of the automated record keeping fee collected under 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 fund established by IC 5-2-6-23(j) 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 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 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 33-37-5-33 (before its expiration on July 1, 2017).

(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) 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, 2022, 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 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

1 manages the net earnings the Indiana Bar Foundation receives
2 from IOLTA accounts; and

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

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

11 **(n) The clerk of a circuit court shall distribute semiannually to**
12 **the county auditor one hundred percent (100%) of the traffic**
13 **amnesty installment fees collected under IC 33-37-5-34 for deposit**
14 **in the county general fund. The county fiscal body shall**
15 **appropriate at least eighty percent (80%) of the revenue from the**
16 **traffic amnesty installment fees to defray expenses incurred by the**
17 **court in connection with the establishment, implementation, or**
18 **operation of the traffic amnesty program established under**
19 **IC 9-33-4. Funds appropriated to defray court expenses under this**
20 **subsection may be used only to supplement court funding and may**
21 **not be used to replace other court funding. This subsection expires**
22 **July 1, 2021.**

(Reference is to EHB 1141 as printed March 27, 2019.)

Senator FORD J.D.