SENATE BILL No. 255

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-41; IC 5-2-8; IC 6-7-3; IC 7.1-8; IC 7.1-9; IC 15-16-7-8; IC 33-37; IC 35-48-4; IC 35-52-7-97.

Synopsis: Medical marijuana. Establishes a medical marijuana program (program), and permits caregivers and patients who have received a physician recommendation to possess a certain quantity of marijuana for treatment of certain medical conditions. Establishes the department of marijuana enforcement (DOME) as a state agency to oversee the program, and creates the DOME advisory committee to review the effectiveness of the program and to consider recommendations from DOME. Authorizes DOME to grant research licenses to research facilities with a physical presence in Indiana. Repeals the controlled substance excise tax and the marijuana eradication program. Makes conforming amendments.

Effective: July 1, 2017.

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January 9, 2017, read first time and referred to Committee on Tax and Fiscal Policy.
SENATE BILL No. 255

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-41 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 41. DOME Advisory Committee
Sec. 1. The following definitions apply throughout this chapter:
(1) "Advisory committee" means the DOME advisory committee established by section 2 of this chapter.
(2) "DOME" means the department of marijuana enforcement established by IC 7.1-9-2-1.
Sec. 2. The DOME advisory committee is established.
Sec. 3. (a) The advisory committee consists of the following four voting members and five (5) nonvoting members:
(1) One (1) legislative member appointed by the speaker of the house of representatives.
(2) One (1) legislative member appointed by the minority leader of the house of representatives.
(3) One (1) legislative member appointed by the president pro
tempore of the senate.

(4) One (1) legislative member appointed by the minority leader of the senate.

(5) One (1) representative of law enforcement, appointed as a nonvoting member by the speaker of the house of representatives.

(6) One (1) individual having experience in the treatment of medical conditions by means of medical marijuana as a patient, physician, or caregiver, appointed as a nonvoting member by the president pro tempore of the senate.

(7) The commissioner of the department of revenue or the commissioner's designee, who serves as a nonvoting member.

(8) The director of the department of agriculture or the director's designee, who serves as a nonvoting member.

(9) The state health commissioner or the commissioner's designee, who serves as a nonvoting member.

(b) The chairperson of the legislative council shall annually select one (1) of the voting members to serve as chairperson.

Sec. 4. (a) A legislative member of the advisory committee may be removed at any time by the appointing authority who appointed the legislative member.

(b) If a vacancy exists on the advisory committee, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy.

Sec. 5. Each member of the advisory committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

Sec. 6. The affirmative votes of a majority of the voting members appointed to the advisory committee are required for the advisory committee to take action on any measure, including final reports.

Sec. 7. The advisory committee shall do the following:

(1) Review rules adopted by DOME.

(2) Review legislative proposals suggested by DOME.

(3) Evaluate the medical marijuana research and development program under IC 7.1-9-5.

(4) Evaluate the operation of the medical marijuana program.

(5) Consider any other matter that has bearing on the operation of the medical marijuana program.

SECTION 2. IC 5-2-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) There is established the state
police training fund. The fund consists of amounts collected under 
IC 33-37-4-1(b)(4), IC 33-37-4-1(b)(3), IC 33-37-4-2(b)(3), and 
IC 33-37-4-3(b)(4) IC 33-37-4-3(b)(3) on behalf of the state police 
department.

(b) If the state police department files a claim under IC 33-37-8-4 
or IC 33-37-8-6 against a city or town user fee fund or a county user fee 
fund, the fiscal officer of the city or town or the county auditor shall 
deposit fees collected under the cause numbers submitted by the state 
police department into the state police training fund established under 
this section.

(c) Claims against the state police training fund must be submitted 
in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars ($100) that is 
unencumbered and remains in the state police training fund for at least 
one (1) entire calendar year from the date of its deposit shall, at the end 
of the state's fiscal year, be deposited in the law enforcement training 
fund established under IC 5-2-1-13(b).

(e) As used in this subsection, "abuse" has the meaning set forth in 
section 1(a) of this chapter. As a part of the state police department's 
in-service training, the department shall provide to each law 
enforcement officer employed by the department continuing education 
concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining 
orders, protective orders, temporary injunctions, and permanent 
injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in 
cases involving abuse.

(3) Techniques for handling incidents of abuse that: 
(A) minimize the likelihood of injury to the law enforcement 
officer; and 
(B) promote the safety of a victim.

(4) Information about the nature and extent of the abuse.

(5) Information about the legal rights of and remedies available 
to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in 
abuse cases.

(9) Services and facilities available to victims of abuse and 
abusers.

(10) Verification of restraining orders, protective orders, 
temporary injunctions, and permanent injunctions.
(11) Policies concerning arrest or release of suspects in abuse cases.
(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
(13) Landlord-tenant concerns in abuse cases.
(14) The taking of an abused child into protective custody.
(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
(17) Response to a sudden, unexpected infant death.

The cost of providing continuing education under this subsection shall be paid from money in the state police training fund.

SECTION 3. IC 5-2-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) There is established the conservation officers training fund. The department of natural resources shall administer the fund. The fund consists of amounts collected under IC 33-37-4-1(b)(4), IC 33-37-4-1(b)(3), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4) IC 33-37-4-3(b)(3) on behalf of the department of natural resources.
(b) If the department of natural resources files a claim under IC 33-37-8-4 or IC 33-37-8-6 against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the department of natural resources into the conservation officers training fund established under this section.
(c) Claims against the conservation officers training fund must be submitted in accordance with IC 5-11-10.
(d) Money in excess of one hundred dollars ($100) that is unencumbered and remains in the conservation officers' training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

SECTION 4. IC 5-2-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) There is established the alcoholic beverage enforcement officers' training fund. The alcohol and tobacco commission shall administer the fund. The fund consists of amounts collected under IC 33-37-4-1(b)(4), IC 33-37-4-1(b)(3), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4) IC 33-37-4-3(b)(3) on behalf of the alcohol and tobacco commission.
(b) If the alcohol and tobacco commission files a claim under IC 33-37-8-4 or IC 33-37-8-6 against a city or town user fee fund or a
county user fee fund, the fiscal officer of the city or town or the county
auditor shall deposit fees collected under the cause numbers submitted
by the alcohol and tobacco commission into the alcoholic beverage
enforcement officers' training fund established under this section.
(c) Claims against the alcoholic beverage enforcement officers'
training fund must be submitted in accordance with IC 5-11-10.
(d) Money in excess of one hundred dollars ($100) that is
unencumbered and remains in the alcoholic beverage enforcement
officers' training fund for at least one (1) entire calendar year from the
date of its deposit shall, at the end of the state's fiscal year, be deposited
in the law enforcement training fund established under IC 5-2-1-13(b).
SECTION 5. IC 6-7-3 IS REPEALED [EFFECTIVE JULY 1, 2017].
(Controlled Substance Excise Tax).
SECTION 6. IC 7.1-8 IS ADDED TO THE INDIANA CODE AS A
NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
2017]:
ARTICLE 8. MEDICAL MARIJUANA
Chapter 1. Definitions
Sec. 1. The following definitions apply throughout this article:
(1) "Adequate supply for treatment" means the amount of
marijuana necessary to provide care for a treatable medical
condition for a thirty (30) day period, as determined by a
physician recommendation.
(2) "DOME" means the department of marijuana
enforcement established by IC 7.1-9-2-1.
(3) "DOME committee" means the DOME commissioners
described in IC 7.1-9-2.
(4) "Marijuana" means any part of the plant genus Cannabis.
(5) "Medical marijuana card" means a valid card issued by
DOME that authorizes the individual to whom the card is
issued to possess marijuana.
(6) "Physician" means an individual holding an unlimited
license to practice medicine in Indiana.
(7) "Physician recommendation" means a written
recommendation that the use of marijuana may benefit a
particular patient suffering from a treatable medical
condition. A physician recommendation may specify an
adequate supply for treatment.
(8) "Qualified patient" means an individual who has been
issued a medical marijuana card by DOME.
(9) "Qualified primary caregiver" means the primary
caregiver for a qualified patient who has been issued a
medical marijuana card by DOME on behalf of the qualified patient.

(10) "Qualified researcher" means a person listed on a valid marijuana research license issued by DOME.

(11) "Treatable medical condition" means an illness or other condition, the symptoms of which (including the side effects and symptoms caused by any other treatment for the condition) may be treated by the use of marijuana. The term includes the following:

(A) Acquired immune deficiency syndrome (AIDS) or positive status for the human immunodeficiency virus (HIV).
(B) Anorexia.
(C) Arthritis.
(D) Cachexia.
(E) Chronic cancer pain.
(F) Glaucoma.
(G) Migraine.
(H) Persistent muscle spasms, including spasms associated with multiple sclerosis, Crohn's disease, or related conditions.
(I) Seizures, including those characteristic of epilepsy.
(J) Severe nausea.
(K) Posttraumatic stress disorder.
(L) Any persistent or chronic illness or condition that, in the opinion of a physician:
   (i) substantially limits the ability of an individual to conduct one (1) or more major life activities; or
   (ii) may cause serious harm to a patient's safety or mental or physical health if not alleviated;
   if the illness or condition may be improved by the use of marijuana.
(M) Any other illness or condition determined by DOME to be a treatable medical condition.

Chapter 2. Qualified Patients and Qualified Primary Caregivers

Sec. 1. (a) An individual may apply to DOME to be a qualified patient if the individual suffers from a treatable medical condition.
An individual may apply to DOME to be a qualified primary caregiver if the individual for whom the individual provides care suffers from a treatable medical condition.

(b) To be approved as a qualified patient, an individual must submit to DOME a physician recommendation stating that the
individual suffers from a treatable medical condition. To be approved as a qualified primary caregiver, an individual must submit to DOME a physician recommendation stating that the individual for whom the caregiver provides care suffers from a treatable medical condition.

(c) DOME shall issue to an individual a medical marijuana card indicating that the individual is a qualified patient or a qualified primary caregiver after:

(1) receipt of a:
   (A) completed application; and
   (B) physician recommendation;
(2) verification that the individual who tendered the physician recommendation is a licensed physician; and
(3) compliance with any other rule adopted by DOME.

(d) An application for a medical marijuana card may be denied for the following reasons:

(1) The application is not complete or required information is missing.
(2) The applicant submits false information.
(3) The applicant does not meet the criteria required to obtain a medical marijuana card.
(4) The individual who tendered the physician recommendation is not a licensed physician.

(e) A medical marijuana card issued under this section is valid for two (2) years, unless the physician recommendation expressly recommends a shorter period.

(f) DOME may charge a reasonable fee, not to exceed one hundred dollars ($100), to apply for a medical marijuana card. The fee shall be deposited in the state general fund.

(g) Except as provided in subsection (h), for purposes of IC 5-14-3-4(a)(1), the following information is confidential, may not be published, and is not open to public inspection:

(1) Information submitted by an individual under this section to obtain a medical marijuana card.
(2) Information obtained by a federal, state, or local government entity in the course of an investigation concerning an individual who applies to obtain a medical marijuana card.
(3) The name and address of the individual, and any other information that may be used to identify an individual, who holds a medical marijuana card.

(h) Notwithstanding subsection (g):

(1) any information concerning an individual who applies for,
or an individual who holds, a medical marijuana card may be released to a federal, state, or local government entity:

(A) for law enforcement purposes; or

(B) to determine the validity of a medical marijuana card; and

(2) general information concerning the issuance of a medical marijuana card in Indiana may be released to a person conducting journalistic or academic research (including the research described in IC 7.1-9-5), but only if all personal information that may be used to identify any individual who applies for or holds a medical marijuana card issued under this chapter has been removed from the general information.

(i) A person who knowingly or intentionally violates this section by releasing confidential information commits a disclosure of confidential medical information, a Class B misdemeanor.

(j) A person who knowingly makes a material misstatement in an application for a medical marijuana card under this section commits fraudulent application for a medical marijuana card, a Class B misdemeanor.

Sec. 2. A qualified patient or qualified primary caregiver may:

(1) possess the greater of:

(A) eight (8) ounces or less of dried marijuana; or

(B) an adequate supply for treatment as set forth in a physician recommendation; and

(2) possess, grow, or cultivate not more than twelve (12) marijuana plants.

Sec. 3. (a) A qualified primary caregiver may deliver to, or possess with intent to deliver to, a qualified patient for whom the caregiver is the primary caregiver:

(1) the greater of:

(A) eight (8) ounces or less of dried marijuana; or

(B) an adequate supply for treatment as set forth in a physician recommendation; and

(2) not more than twelve (12) marijuana plants.

(b) A qualified primary caregiver may possess, grow, or cultivate not more than twelve (12) marijuana plants for use by a qualified patient for whom the individual is the primary caregiver.

Sec. 4. The medical licensing board may not take an adverse action against a physician who makes a physician recommendation in good faith under this article solely on the basis of the physician recommendation.

SECTION 7. IC 7.1-9 IS ADDED TO THE INDIANA CODE AS A
NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

ARTICLE 9. DEPARTMENT OF MARIJUANA ENFORCEMENT

Chapter 1. Definitions
Sec. 1. The definitions in IC 7.1-8-1-1 apply throughout this article.

Chapter 2. General Provisions
Sec. 1. The department of marijuana enforcement (DOME) is established as an agency of the state for purposes of administering the medical marijuana program.

Sec. 2. (a) DOME consists of:
(1) the DOME committee;
(2) the executive director; and
(3) other employees necessary to carry out the duties of DOME.

(b) The DOME committee consists of four (4) commissioners who shall direct and oversee the operation of DOME.

Sec. 3. (a) DOME commissioners shall be appointed by the governor.

(b) A commissioner is eligible for reappointment.

(c) Not more than two (2) commissioners may belong to the same political party.

(d) A commissioner shall be appointed to a four (4) year term.

(e) A commissioner serves the commissioner's term at the pleasure of the governor.

Sec. 4. To be eligible for appointment as a commissioner, an individual must have the following qualifications:

(1) The individual may not be employed by the state in any other capacity.

(2) The individual must have good moral character.

(3) The individual must have been a resident of Indiana for at least ten (10) years immediately preceding the appointment.

Sec. 5. The governor shall appoint one (1) commissioner to serve as chairperson of the DOME committee, and one (1) commissioner to serve as vice chairperson. The vice chairperson shall act as the chairperson if the chairperson is unable to attend a meeting of the DOME committee.

Sec. 6. A commissioner appointed to fill a vacancy in the membership of the DOME committee shall serve only for the unexpired portion of the original, vacated term. In all other respects, an appointment to fill a vacancy shall be made in the
same manner that an original appointment is made.

Sec. 7. As compensation for services, each commissioner is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A commissioner is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the commissioner's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 8. Each commissioner shall execute:

(1) a surety bond in the amount of ten thousand dollars ($10,000), with surety approved by the governor; and

(2) an oath of office.

The surety bond and the oath of office shall be filed in the office of the secretary of state.

Sec. 9. The required surety bond executed and filed on behalf of a commissioner shall be made payable to the state of Indiana and conditioned upon the faithful discharge of the commissioner's duties.

Sec. 10. The DOME committee shall hold meetings at the call of the chairperson. The DOME committee may establish rules governing meetings.

Sec. 11. (a) Three (3) DOME commissioners constitute a quorum for the transaction of business.

(b) Each commissioner has one (1) vote.

(c) Action of the DOME committee may be taken only upon the affirmative votes of at least two (2) commissioners. If a vote is a tie, the position for which the chairperson voted prevails, as long as that position has received the affirmative votes of at least two (2) commissioners.

Sec. 12. A commissioner may not solicit or accept a political contribution from a qualified patient, qualified primary caregiver, or any individual or entity that has a permit or has applied for a permit issued by DOME. However, the right of a commissioner to vote as the commissioner chooses and to express the commissioner's opinions on political subjects and candidates may not be impaired.

Chapter 3. Employees and Administration

Sec. 1. (a) The DOME committee shall appoint an executive director to aid DOME in the efficient administration of its powers and duties.

(b) The DOME committee shall fix the salary of the executive
Sec. 1. The chairperson shall be the presiding officer at the meetings of the DOME committee. The chairperson, together with the executive director, shall prepare, certify, and authenticate all proceedings, minutes, records, rules, and regulations of the DOME committee. The chairperson shall also perform all other duties as imposed by this title.

Sec. 2. DOME shall have the power to employ all necessary employees, determine their duties, and, subject to the approval of the DOME committee and the budget agency, fix their salaries.

Chapter 4. Powers and Duties
Sec. 1. The chairperson shall be the presiding officer at the meetings of the DOME committee. The chairperson, together with the executive director, shall prepare, certify, and authenticate all proceedings, minutes, records, rules, and regulations of the DOME committee. The chairperson shall also perform all other duties as imposed by this title.

Sec. 2. DOME shall have the power to organize its work, to enforce and administer the provisions of this article and IC 7.1-8, and to enforce and administer the rules adopted by DOME.

Sec. 3. DOME shall adopt rules under IC 4-22-2 to prescribe the forms for all applications, documents, permits, medical marijuana cards, and licenses used in the administration of this article and IC 7.1-8.

Sec. 4. DOME has the following powers:
(1) To hold hearings before DOME or its representative.
(2) To take testimony and receive evidence.
(3) To conduct inquiries with or without a hearing.
(4) To receive reports of investigators or other governmental officers and employees.
(5) To administer oaths.
(6) To subpoena witnesses and to compel them to appear and testify.
(7) To certify copies of records of DOME or any other document or record on file with DOME.
(8) To fix the form, mode, manner, time, and number of times for the posting or publication of any required notices if not otherwise provided.
(9) To adopt rules under IC 4-22-2 to carry out this article and IC 7.1-8.

Sec. 5. DOME has the following duties:
(1) To establish the medical marijuana program described in IC 7.1-8 and to adopt all necessary rules to implement the program.
(2) To implement protocols for the application and issuance of a medical marijuana card, including protocols to:
   (A) prevent fraud;
   (B) ensure the accuracy of information contained in the
application; and

(C) protect the privacy of an applicant.

(3) To advise the general assembly concerning the establishment of a program for the:

(A) manufacture;

(B) cultivation;

(C) transportation; and

(D) dispensing;

of medical marijuana.

(4) To encourage research concerning medical marijuana and issue licenses as described in IC 7.1-9-5.

Chapter 5. Research and Development

Sec. 1. To permit and encourage research concerning medical marijuana:

(1) an accredited institution of higher education with a physical presence in Indiana; and

(2) a pharmaceutical or agricultural business having a research facility in Indiana;

may apply to DOME for a license to conduct research concerning medical marijuana.

Sec. 2. An application under this chapter must include the following:

(1) The nature of the research project.

(2) The names of the individuals who will conduct the research.

(3) The approximate quantity of marijuana that will be used in the research project.

(4) The security protocol to be implemented to ensure that marijuana is not diverted for uses other than the research project.

(5) Any other information required by DOME.

Sec. 3. Upon receipt of a completed application, DOME may issue a research license to the institution of higher education or pharmaceutical or agricultural business. The research license must specifically list the names of each individual participating in the research project who will have custody or control of marijuana for research purposes and the approximate quantity of the marijuana that will be used in the research project.

Sec. 4. DOME may charge a reasonable fee for issuance of a research license.

SECTION 8. IC 15-16-7-8 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 8. In addition to the weed control board's powers and duties
under section 7 of this chapter, the weed control board may establish a marijuana eradication program to eliminate and destroy wild marijuana plants within the county. The program is funded by amounts appropriated by the county:

1. under IC 33-37-8; and
2. from the county general fund.

SECTION 9. IC 33-37-4-1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars ($120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

2. A marijuana eradication program fee (IC 33-37-5-7).
3. An alcohol and drug services program user fee (IC 33-37-5-8(b)).
4. A law enforcement continuing education program fee (IC 33-37-5-8(c)).
5. A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
6. An alcohol and drug countermeasures fee (IC 33-37-5-10).
10. A deferred prosecution fee (IC 33-37-5-17).
17. A judicial salaries fee (IC 33-37-5-26).
19. A DNA sample processing fee (IC 33-37-5-26.2).

(c) Instead of the criminal costs fee prescribed by this section, except for the automated record keeping fee (IC 33-37-5-21), the clerk
shall collect a pretrial diversion program fee if an agreement between
the prosecuting attorney and the accused person entered into under
IC 33-39-1-8 requires payment of those fees by the accused person.
The pretrial diversion program fee is:
(1) an initial user's fee of fifty dollars ($50); and
(2) a monthly user's fee of ten dollars ($10) for each month that
the person remains in the pretrial diversion program.
(d) The clerk shall transfer to the county auditor or city or town
fiscal officer the following fees, not later than thirty (30) days after the
fees are collected:
(1) The pretrial diversion fee.
(2) The marijuana eradication program fee.
(3) The alcohol and drug services program user fee.
(4) The law enforcement continuing education program fee.
The auditor or fiscal officer shall deposit fees transferred under this
subsection in the appropriate user fee fund established under
IC 33-37-8.
(e) Unless otherwise directed by a court, if a clerk collects only part
of a criminal costs fee from a defendant under this section, the clerk
shall distribute the partial payment of the criminal costs fee as follows:
(1) The clerk shall apply the partial payment to general court
costs.
(2) If there is money remaining after the partial payment is
applied to general court costs under subdivision (1), the clerk
shall distribute the remainder of the partial payment for deposit in
the appropriate county user fee fund.
(3) If there is money remaining after distribution under
subdivision (2), the clerk shall distribute the remainder of the
partial payment for deposit in the state user fee fund.
(4) If there is money remaining after distribution under
subdivision (3), the clerk shall distribute the remainder of the
partial payment to any other applicable user fee fund.
(5) If there is money remaining after distribution under
subdivision (4), the clerk shall apply the remainder of the partial
payment to any outstanding fines owed by the defendant.

SECTION 10. IC 33-37-4-3, AS AMENDED BY THE
TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL
ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2017]: Sec. 3. (a) The clerk shall collect a juvenile costs fee
of one hundred twenty dollars ($120) for each action filed under any of
the following:
(1) IC 31-34 (children in need of services).
(2) IC 31-37 (delinquent children).
(3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:
(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A marijuana eradication program fee (IC 33-37-5-7).
(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
(5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
(6) A document storage fee (IC 33-37-5-20).
(7) An automated record keeping fee (IC 33-37-5-21).
(8) A late payment fee (IC 33-37-5-22).
(9) A public defense administration fee (IC 33-37-5-21.2).
(10) A judicial insurance adjustment fee (IC 33-37-5-25).
(11) A judicial salaries fee (IC 33-37-5-26).
(12) A court administration fee (IC 33-37-5-27).
(13) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:
(1) The marijuana eradication program fee (IC 33-37-5-7).
(2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
(3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 11. IC 33-37-5-7 IS REPEALED [EFFECTIVE JULY 1, 2017]. See: 7; (a) This section applies to criminal actions:
(b) The clerk shall collect the marijuana eradication program fee set by the court under IC 15-16-7-8, if:
(1) a weed control board has been established in the county under IC 15-16-7-3; and
(2) the person has been convicted of an offense under IC 35-48-4 in a case prosecuted in that county.
(c) The court may set a fee under this section of not more than three hundred dollars ($300):
TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

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. (1) IC 33-37-4-1(a) (criminal costs fees).
2. (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
3. (3) IC 33-37-4-3(a) (juvenile costs fees).
4. (4) IC 33-37-4-4(a) (civil costs fees).
5. (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
6. (6) IC 33-37-4-7(a) (probate costs fees).
7. (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. (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5). IC 33-37-4-1(b)(4).
2. (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(5), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
3. (3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). IC 33-37-4-1(b)(6).
4. (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
5. (5) One hundred percent (100%) of the highway worksite zone fees collected under IC 33-37-4-1(b)(9) IC 33-37-4-1(b)(8) and IC 33-37-4-2(b)(5).
6. (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
7. (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
(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5). IC 33-37-4-1(b)(4).
(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-1(b)(5), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
IC 33-37-4-3(b)(4).
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, 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 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.

SECTION 13. IC 33-37-7-8, AS AMENDED BY P.L.213-2015, SECTION 260, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) The clerk of a city or town 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 fifty-five percent (55%) 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 33-37-4-4(a) (civil costs fees).
4. IC 33-37-4-6(a)(1)(A) (small claims costs fees).
5. IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) 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 33-37-4-4(a) (civil costs fees).
4. IC 33-37-4-6(a)(1)(A) (small claims costs fees).
5. IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the 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 33-37-4-4(a) (civil costs fees).
4. IC 33-37-4-6(a)(1)(A) (small claims costs fees).
5. IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 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), IC 33-37-4-1(b)(4).
2. Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-1(b)(5), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
3. IC 33-37-4-3(b)(4).
4. One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9), IC 33-37-4-1(b)(8) and IC 33-37-4-2(b)(5).
5. One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
6. One hundred percent (100%) of the automated record keeping fees under IC 33-37-6-4(c) or IC 33-37-6-4(a).
fee collected under IC 33-37-5-21 not distributed under subsection (a).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

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

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

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town 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 DNA sample processing fees collected under IC 33-37-5-26.2.

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

(h) The clerk of a city or town 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.

(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
percent (25%) of the judicial salaries fee collected under IC 33-37-5-26. The funds retained by the city or town shall be prioritized to fund city or town court operations.

(j) The clerk of a city or town 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 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.

SECTION 14. IC 33-37-8-5, AS AMENDED BY P.L.187-2011, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) A county user fee fund is established in each county to finance various program services. The county fund is administered by the county auditor.

(b) The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under IC 31-37-9-9:

(1) The pretrial diversion program fee.
(2) The informal adjustment program fee.
(3) The marijuana eradication program fee.
(4) The alcohol and drug services program fee.
(5) The law enforcement continuing education program fee.
(6) The deferral program fee.
(7) The jury fee.
(8) The problem solving court fee.

(c) All of the jury fee and two dollars ($2) of a deferral program fee
collected under IC 33-37-4-2(e) shall be deposited by the county
auditor in the jury pay fund established under IC 33-37-11.

SECTION 15. IC 35-48-4-8.3, AS AMENDED BY P.L.187-2015,
SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2017]: Sec. 8.3. (a) This section does not apply to a rolling
paper.

(b) A person who knowingly or intentionally possesses an
instrument, a device, or another object that the person intends to use
for:

1) introducing into the person's body a controlled substance;
2) testing the strength, effectiveness, or purity of a controlled
substance; or
3) enhancing the effect of a controlled substance;

commits a Class C misdemeanor. However, the offense is a Class A
misdemeanor if the person has a prior unrelated judgment or conviction
under this section.

(c) It is a defense to an action or prosecution under this section
that:

1) the person who possesses the instrument, device, or other
object is a:

(A) qualified patient (as defined in IC 7.1-8-1-1) or
qualified primary caregiver (as defined in IC 7.1-8-1-1); or
(B) qualified researcher (as defined in IC 7.1-8-1-1); and

(2) the instrument, device, or other object is for the use of
medical marijuana or research relating to the use of medical
marijuana.

SECTION 16. IC 35-48-4-10, AS AMENDED BY P.L.44-2016,
SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2017]: Sec. 10. (a) A person who:

1) knowingly or intentionally:

(A) manufactures;
(B) finances the manufacture of;
(C) delivers; or
(D) finances the delivery of;

marijuana, hash oil, hashish, or salvia, pure or adulterated; or

(2) possesses, with intent to:

(A) manufacture;
(B) finance the manufacture of;
(C) deliver; or
(D) finance the delivery of;

marijuana, hash oil, hashish, or salvia, pure or adulterated;

commits dealing in marijuana, hash oil, hashish, or salvia, a Class A
misdemeanor, except as provided in subsections (b) through (d).

(b) A person may be convicted of an offense under subsection (a)(2) only if:

(1) there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug; or

(2) the amount of the drug involved is at least:

(A) ten (10) pounds, if the drug is marijuana; or

(B) three hundred (300) grams, if the drug is hash oil, hashish, or salvia.

(c) The offense is a Level 6 felony if:

(1) the person has a prior conviction for a drug offense and the amount of the drug involved is:

(A) less than thirty (30) grams of marijuana; or

(B) less than five (5) grams of hash oil, hashish, or salvia; or

(2) the amount of the drug involved is:

(A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or

(B) at least five (5) grams but less than three hundred (300) grams of hash oil, hashish, or salvia.

(d) The offense is a Level 5 felony if:

(1) the person has a prior conviction for a drug dealing offense and the amount of the drug involved is:

(A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or

(B) at least five (5) grams but less than three hundred (300) grams of hash oil, hashish, or salvia; or

(2) the:

(A) amount of the drug involved is:

(i) at least ten (10) pounds of marijuana; or

(ii) at least three hundred (300) grams of hash oil, hashish, or salvia; or

(B) offense involved a sale to a minor.

(e) It is a defense to a prosecution under this section for an offense involving marijuana, hash oil, or hashish that the person is a:

(1) qualified primary caregiver (as defined in IC 7.1-8-1-1), if:

(A) the possession or delivery of the marijuana, hash oil, or hashish is permitted under IC 7.1-8-2-3; and

(B) the quantity of marijuana, hash oil, or hashish possessed or delivered does not exceed the permissible amounts set forth in IC 7.1-8-2-3; or
(2) qualified researcher (as defined in IC 7.1-8-1-1), if:
   (A) the possession or delivery of the marijuana, hash oil, or hashish is permitted by the research license issued by DOME under IC 7.1-9-5; and
   (B) the quantity of marijuana, hash oil, or hashish possessed or delivered does not exceed the permissible quantity authorized by the research license issued by DOME.

SECTION 17. IC 35-48-4-11, AS AMENDED BY P.L.226-2014(ts), SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) A person who:
   (1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, or salvia;
   (2) knowingly or intentionally grows or cultivates marijuana; or
   (3) knowing that marijuana is growing on the person's premises, fails to destroy the marijuana plants;
   commits possession of marijuana, hash oil, hashish, or salvia, a Class B misdemeanor, except as provided in subsections (b) through (c).
   (b) The offense described in subsection (a) is a Class A misdemeanor if the person has a prior conviction for a drug offense.
   (c) The offense described in subsection (a) is a Level 6 felony if:
       (1) the person has a prior conviction for a drug offense; and
       (2) the person possesses:
           (A) at least thirty (30) grams of marijuana; or
           (B) at least five (5) grams of hash oil, hashish, or salvia.
   (d) It is a defense to a prosecution under this section for an offense involving marijuana, hash oil, or hashish that the person is a:
       (1) qualified patient (as defined in IC 7.1-8-1-1) or qualified primary caregiver (as defined under IC 7.1-8-1-1), if:
           (A) the possession of the marijuana, hash oil, or hashish is permitted under IC 7.1-8-2-2; and
           (B) the quantity of marijuana, hash oil, or hashish possessed or cultivated does not exceed the permissible amounts set forth in IC 7.1-8-2-2; or
       (2) qualified researcher (as defined in IC 7.1-8-1-1), if:
           (A) the possession or cultivation of the marijuana, hash oil, or hashish is permitted by the research license issued by DOME under IC 7.1-9-5; and
           (B) the quantity of marijuana, hash oil, or hashish possessed or cultivated does not exceed the permissible quantity authorized by the research license issued by DOME.
SECTION 18. IC 35-52-7-97 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 97. IC 7.1-8-2-1 defines a crime concerning medical marijuana.