



PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 124 be amended to read as follows:

- 1 Page 1, between lines 14 and 15, begin a new paragraph and insert:
- 2 **"(c) A person who violates this section may be eligible to**
- 3 **perform community restitution or service (as defined in**
- 4 **IC 35-31.5-2-50) in accordance with IC 34-28-5-1(h) instead of**
- 5 **paying a monetary judgment."**
- 6 Page 2, after line 36, begin a new paragraph and insert:
- 7 "SECTION 4. IC 34-28-5-1, AS AMENDED BY P.L.110-2020,
- 8 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 JULY 1, 2022]: Sec. 1. (a) An action to enforce a statute defining an
- 10 infraction shall be brought in the name of the state of Indiana by the
- 11 prosecuting attorney for the judicial circuit in which the infraction
- 12 allegedly took place. However, if the infraction allegedly took place on
- 13 a public highway (as defined in IC 9-25-2-4) that runs on and along a
- 14 common boundary shared by two (2) or more judicial circuits, a
- 15 prosecuting attorney for any judicial circuit sharing the common
- 16 boundary may bring the action.
- 17 (b) An action to enforce an ordinance shall be brought in the name
- 18 of the municipal corporation. The municipal corporation need not
- 19 prove that it or the ordinance is valid unless validity is controverted by
- 20 affidavit.
- 21 (c) Actions under this chapter (or IC 34-4-32 before its repeal):

- 1 (1) shall be conducted in accordance with the Indiana Rules of
 2 Trial Procedure; and
 3 (2) must be brought within two (2) years after the alleged conduct
 4 or violation occurred.
- 5 (d) The plaintiff in an action under this chapter must prove the
 6 commission of an infraction or ordinance violation by a preponderance
 7 of the evidence.
- 8 (e) The complaint and summons described in IC 9-30-3-6 may be
 9 used for any infraction or ordinance violation.
- 10 (f) This subsection does not apply to an offense or violation under
 11 IC 9-24-6 (before its repeal) or IC 9-24-6.1 involving the operation of
 12 a commercial motor vehicle. The prosecuting attorney or the attorney
 13 for a municipal corporation may establish a deferral program for
 14 deferring actions brought under this section. Actions may be deferred
 15 under this section if:
- 16 (1) the defendant in the action agrees to conditions of a deferral
 17 program offered by the prosecuting attorney or the attorney for a
 18 municipal corporation;
 19 (2) the defendant in the action agrees to pay to the clerk of the
 20 court an initial user's fee and monthly user's fee set by the
 21 prosecuting attorney or the attorney for the municipal corporation
 22 in accordance with IC 33-37-4-2(e);
 23 (3) the terms of the agreement are recorded in an instrument
 24 signed by the defendant and the prosecuting attorney or the
 25 attorney for the municipal corporation;
 26 (4) the defendant in the action agrees to pay a fee of seventy
 27 dollars (\$70) to the clerk of court if the action involves a moving
 28 traffic offense (as defined in IC 9-13-2-110);
 29 (5) the agreement is filed in the court in which the action is
 30 brought; and
 31 (6) if the deferral program is offered by the prosecuting attorney,
 32 the prosecuting attorney electronically transmits information
 33 required by the prosecuting attorneys council concerning the
 34 withheld prosecution to the prosecuting attorneys council, in a
 35 manner and format designated by the prosecuting attorneys
 36 council.
- 37 When a defendant complies with the terms of an agreement filed under
 38 this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting
 39 attorney or the attorney for the municipal corporation shall request the
 40 court to dismiss the action. Upon receipt of a request to dismiss an
 41 action under this subsection, the court shall dismiss the action. An
 42 action dismissed under this subsection (or IC 34-4-32-1(f) before its
 43 repeal) may not be refiled.
- 44 (g) If a judgment is entered against a defendant in an action to
 45 enforce an ordinance, the defendant may perform community
 46 restitution or service (as defined in IC 35-31.5-2-50) instead of paying

- 1 a monetary judgment for the ordinance violation as described in section
- 2 4(e) of this chapter if:
- 3 (1) the:
- 4 (A) defendant; and
- 5 (B) attorney for the municipal corporation;
- 6 agree to the defendant's performance of community restitution or
- 7 service instead of the payment of a monetary judgment;
- 8 (2) the terms of the agreement described in subdivision (1):
- 9 (A) include the amount of the judgment the municipal
- 10 corporation requests that the defendant pay under section 4(e)
- 11 of this chapter for the ordinance violation if the defendant fails
- 12 to perform the community restitution or service provided for
- 13 in the agreement as approved by the court; and
- 14 (B) are recorded in a written instrument signed by the
- 15 defendant and the attorney for the municipal corporation;
- 16 (3) the agreement is filed in the court where the judgment was
- 17 entered; and
- 18 (4) the court approves the agreement.

19 If a defendant fails to comply with an agreement approved by a court
 20 under this subsection, the court shall require the defendant to pay up to
 21 the amount of the judgment requested in the action under section 4(e)
 22 of this chapter as if the defendant had not entered into an agreement
 23 under this subsection.

24 **(h) If a judgment is entered against a defendant in an action to**
 25 **enforce a violation of IC 9-21-8-24, the defendant may perform**
 26 **community restitution or service (as defined in IC 35-31.5-2-50)**
 27 **instead of paying a monetary judgment for the violation as**
 28 **described in section 4 of this chapter if:**

- 29 (1) the:
- 30 (A) defendant; and
- 31 (B) prosecuting attorney;
- 32 agree to the defendant's performance of community
- 33 restitution or service instead of the payment of a monetary
- 34 judgment;
- 35 (2) the terms of the agreement described in subdivision (1):
- 36 (A) include the monetary judgment that the prosecuting
- 37 attorney requests that the defendant pay under section 4 of
- 38 this chapter, subject to the limits under section 4(f) of this
- 39 chapter, for the violation of IC 9-21-8-24 if the defendant
- 40 fails to perform the community restitution or service
- 41 provided for in the agreement as approved by the court;
- 42 and
- 43 (B) are recorded in a written instrument signed by the
- 44 defendant and the prosecuting attorney;
- 45 (3) the agreement is filed in the court where the judgment was
- 46 entered; and

1 **(4) the court approves the agreement.**
2 **If a defendant fails to comply with an agreement approved by a**
3 **court under this subsection, the court shall require the defendant**
4 **to pay up to the amount of the monetary judgment requested in the**
5 **action under section 4 of this chapter as if the defendant had not**
6 **entered into an agreement under this subsection."**

7 Renumber all SECTIONS consecutively.
 (Reference is to ESB 124 as printed February 17, 2022.)

Representative Jacob