

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1493

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 31-40-1-3, AS AMENDED BY P.L.101-2022, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) **Subject to subsection (f)**, a parent or guardian of the estate of a child adjudicated a delinquent child or a child in need of services is financially responsible as provided in this chapter (or IC 31-6-4-18(e) before its repeal) for any services provided by or through the department.

(b) Each person described in subsection (a) shall, before a hearing under subsection (c) concerning payment or reimbursement of costs, furnish the court and the department with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana supreme court for child support orders.

(c) At:

- (1) a detention hearing;
- (2) a hearing that is held after the payment of costs by the department under section 2 of this chapter (or IC 31-6-4-18(b) before its repeal);
- (3) the dispositional hearing; or
- (4) any other hearing to consider modification of a dispositional decree;

the juvenile court ~~shall~~ **may not** order the child's parents or the

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guardian of the child's estate to pay for, or reimburse the department for the cost of services provided to the child or the parent or guardian unless the court makes a specific finding that the parent or guardian is **unable able** to pay. ~~or that justice would not be served by ordering payment from the parent or guardian.~~

(d) Any parental reimbursement obligation under this section shall be paid directly to the department and not to the local court clerk so long as the child in need of services case or juvenile delinquency case is open. The department shall keep track of all payments made by each parent and shall provide a receipt for each payment received. At the end of the child in need of services or juvenile delinquency action, the department shall provide an accounting of payments received, and the court may consider additional evidence of payment activity and determine the amount of parental reimbursement obligation that remains unpaid. The court shall reduce the unpaid balance to a final judgment that may be enforced in any court having jurisdiction over such matters.

(e) After a judgment for unpaid parental reimbursement obligation is rendered, payments made toward satisfaction of the judgment shall be made to the clerk of the court in the county where the enforcement action is filed and shall be promptly forwarded to the department in the same manner as any other judgment payment.

(f) A parent is presumed indigent unless a court makes a specific finding that states otherwise.

SECTION 2. IC 31-40-1-3.5, AS ADDED BY P.L.204-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3.5. (a) If a juvenile court:

(1) adjudicates a child to be a delinquent child; and

(2) awards wardship of the child to the department of correction; the juvenile court may conduct a hearing. The juvenile court shall use the Child Support Rules and Guidelines of the Indiana supreme court and the child support obligation worksheet developed by the Indiana supreme court to determine what each parent should pay for the services provided for the child under this section. If the parent participates with the treatment plans developed by the department of correction, the parent or parents are entitled to receive a parenting time credit under the Child Support Rules and Guidelines. The hearing may be conducted before or after the department of correction incurs costs for a child.

(b) Each parent shall, before a hearing under subsection (a), furnish the juvenile court and the department of correction with an accurately completed and current child support obligation worksheet on the same

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form that is prescribed by the Indiana supreme court for child support orders.

(c) A juvenile court may not order a parent to pay or reimburse the department of correction **if unless** the juvenile court makes a specific finding that the parent is **unable able** to pay. ~~or that justice would not be served by ordering payment from the parent.~~

(d) If, after a hearing, the juvenile court orders a parent to pay or reimburse costs, the parent is financially responsible for the costs of treatment services incurred by the department of correction.

(e) Any parental reimbursement obligation under this section shall be paid directly to the clerk of the court so long as the juvenile delinquency case is open. The clerk of the court shall keep track of all payments made by each parent and shall provide a receipt for each payment received. At the end of the juvenile delinquency action, the clerk of the court shall provide an accounting of payments received, and the juvenile court may consider additional evidence of payment activity and determine the amount of parental reimbursement obligation that remains unpaid. The juvenile court shall reduce the unpaid balance to a final judgment that may be enforced in any court having jurisdiction over such matters.

(f) After a judgment for unpaid parental reimbursement obligation is rendered, payments made toward satisfaction of the judgment shall be made to the clerk of the court in the county where the enforcement action is filed and shall be forwarded promptly to the department of correction in the same manner as any other judgment payment.

(g) The department of correction may compromise a claim owed by a parent under this section. The department of correction, after obtaining the advice of the attorney general, may notify the court of a parental reimbursement obligation that is willfully ignored.

(h) Upon release from the department of correction, the parental reimbursement obligation payment to the department of correction ends. If there was a child support order for the child adjudicated delinquent, it reverts to the most recent child support order in effect before the child's adjudication. If the child is placed with a person other than a custodial parent, the juvenile court shall establish a new support order for the benefit of the child being released from the department of correction.

(i) The department of correction shall deposit money collected under this section in the division of youth services transitional services fund established by IC 11-10-2-11.

SECTION 3. IC 33-23-6-2, AS AMENDED BY P.L.142-2020, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2023]: Sec. 2. (a) In each county participating in the program under this chapter, there is established an alternative dispute resolution fund for each of the following:

- (1) The circuit court.
- (2) The superior court.
- (3) The probate court established by IC 33-31-1.

(b) Notwithstanding subsection (a), if more than one (1) court exercises jurisdiction over domestic relations and paternity cases in a county, one (1) alternative dispute resolution fund may be established to be used by all the courts to implement this chapter if:

- (1) the:
 - (A) county auditor; and
 - (B) judge of each court that exercises jurisdiction over domestic relations and paternity cases in the county; agree to establish one (1) fund; and
- (2) the agreement to establish the fund is included in the plan adopted by the county under section 3 of this chapter.

(c) The sources of money for each fund established under subsection (a) or (b) are:

- (1) the alternative dispute resolution fee collected under section 1 of this chapter for the circuit court, superior court, or probate court, respectively; and
- (2) copayments collected under subsection (d) if:
 - (A) a county chooses to deposit the copayments into the fund; and
 - (B) the county specifies in the plan adopted by the county under section 3 of this chapter that the copayments will be deposited in the fund.

(d) The funds shall be used to foster domestic relations alternative dispute resolution, including:

- (1) mediation;
- (2) reconciliation;
- (3) nonbinding arbitration; ~~and~~
- (4) parental counseling; **and**
- (5) guardian ad litem services.**

Litigants referred by the court to services covered by the fund shall make a copayment for the services in an amount determined by the court based on the litigants' ability to pay. The fund shall be administered by the circuit, superior, or probate court that exercises jurisdiction over domestic relations and paternity cases in the county. A fund used by multiple courts under subsection (b) shall be administered jointly by all the courts using the fund. Money in each



fund at the end of a fiscal year does not revert to the county general fund but remains in the fund for the uses specified in this section.

(e) Each circuit, superior, or probate court that administers an alternative dispute resolution fund shall ensure that money in the fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay, in accordance with the plan adopted by the county under section 3 of this chapter.

(f) ~~A court may not order parties into mediation or refer parties to mediation~~ If a party is currently charged with or has been convicted of a crime under IC 35-42, **the court must make a determination that participation in services provided by this fund does not pose an unreasonable risk of harm to any party.**

SECTION 4. IC 33-37-5-21.2, AS AMENDED BY P.L.229-2011, SECTION 259, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 21.2. (a) This subsection does not apply to the following:

- (1) A criminal proceeding.
- (2) A proceeding to enforce a statute defining an infraction.
- (3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a court described in IC 33-34, the clerk shall collect a public defense administration fee of five dollars (\$5).

(b) In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have committed an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a public defense administration fee of five dollars (\$5).

(c) This section does not apply to a child alleged to be a delinquent child.

SECTION 5. IC 33-40-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) **Subject to subsection (e)**, if at any stage of a prosecution for a felony or a misdemeanor the court makes a finding of ability to pay the costs of representation under section 7 of this chapter, the court shall require payment by the person ~~or the person's parent; if the person is a child alleged to be a delinquent child~~, of the following costs in addition to other costs assessed against the person:

- (1) Reasonable attorney's fees if an attorney has been appointed for the person by the court.
- (2) Costs incurred by the county as a result of court appointed

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legal services rendered to the person.

(b) The clerk of the court shall deposit costs collected under this section into the supplemental public defender services fund established under section 1 of this chapter.

(c) A person ordered to pay any part of the costs of representation under subsection (a) has the same rights and protections as those of other judgment debtors under the Constitution of the State of Indiana and under Indiana law.

(d) The sum of:

- (1) the fee collected under IC 35-33-7-6;
- (2) any amount assessed by the court under this section; and
- (3) any amount ordered to be paid under IC 33-37-2-3;

may not exceed the cost of defense services rendered to the person.

(e) A court may not require payment for costs or fees under this section for a child alleged to be a delinquent child.

SECTION 6. IC 33-40-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) If a defendant ~~or a child alleged to be a delinquent child~~ is receiving publicly paid representation, the court shall consider:

- (1) the person's independently held assets and assets available to the spouse of the person or the person's parent if the person is unemancipated;
- (2) the person's income;
- (3) the person's liabilities; and
- (4) the extent of the burden that payment of costs assessed under section 6 of this chapter would impose on the person and the dependents of the person.

(b) If, after considering the factors described in subsection (a), the court determines that the person is able to pay the costs of representation, the court shall enter a finding that the person is able to pay those additional costs.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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