

IC 33-23-16

Chapter 16. Problem Solving Courts

IC 33-23-16-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-38-9-4. *As added by P.L.108-2010, SEC.4.*

IC 33-23-16-2

"Chemical test"

Sec. 2. As used in this chapter, "chemical test" means an analysis of an individual's:

- (1) blood;
- (2) breath;
- (3) hair;
- (4) sweat;
- (5) saliva;
- (6) urine; or
- (7) other bodily substance;

to determine the presence of alcohol, a drug, or a controlled substance (as defined in IC 35-48-1-9).

As added by P.L.108-2010, SEC.4. Amended by P.L.187-2011, SEC.3.

IC 33-23-16-3

"Community court"

Sec. 3. As used in this chapter, "community court" means a problem solving court focused on addressing specific neighborhood or local criminal problems by:

- (1) bringing together criminal justice professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible defendants or juveniles to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-4

"Domestic violence court"

Sec. 4. As used in this chapter, "domestic violence court" means a problem solving court focused on the safety of the victim and the defendant's accountability by:

- (1) bringing together criminal justice professionals, local social programs, and intensive judicial monitoring;
- (2) linking victims to programs and services; and
- (3) linking eligible defendants and juveniles to programs and services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-5

"Drug court"

Sec. 5. (a) As used in this chapter, "drug court" means a problem solving court focused on addressing the substance abuse issues of defendants or juveniles in the criminal justice system by:

- (1) bringing together substance abuse rehabilitation professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible defendants or juveniles to individually tailored programs or services.

(b) The term does not include an alcohol abuse deterrent program established under IC 9-30-9.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-6

"Family dependency drug court"

Sec. 6. As used in this chapter, "family dependency drug court" means a problem solving court focused on supporting families that include a child who has been adjudicated a child in need of services and a parent, guardian, or other household member who has substance abuse problems by:

- (1) bringing together substance abuse rehabilitation professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible parents, guardians, other household members, and juveniles to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-7

"Mental health court"

Sec. 7. As used in this chapter, "mental health court" means a problem solving court focused on addressing the mental health needs of individuals in the court system by:

- (1) bringing together mental health professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible individuals to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-8

"Problem solving court"

Sec. 8. As used in this chapter, "problem solving court" means a court providing a process for immediate and highly structured judicial intervention for eligible individuals that incorporates the following problem solving concepts:

- (1) Enhanced information to improve decision making.
- (2) Engaging the community to assist with problem solving.
- (3) Collaboration with social service providers and other stakeholders.
- (4) Linking participants with community services based on risk and needs.

(5) Participant accountability.

(6) Evaluating the effectiveness of operations continuously.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-9

"Reentry court"

Sec. 9. As used in this chapter, "reentry court" means a problem solving court that is focused on the needs of individuals who reenter the community after a period of incarceration and that may provide a range of necessary reintegration services for eligible individuals, including the following:

- (1) Supervision.
- (2) Offender assessment.
- (3) Judicial involvement.
- (4) Case management and services.
- (5) Program evaluation.
- (6) Counseling.
- (7) Rehabilitative care.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-9.1

"Rehabilitative service"

Sec. 9.1. As used in this chapter, "rehabilitative service" means a class, program, or service provided:

- (1) to an individual participating in a problem solving court program; and
- (2) by:
 - (A) the problem solving court; or
 - (B) another entity to which the individual has been referred by the problem solving court;

to address the rehabilitative needs of the individual, including classes, programs, or services concerning education, criminal thinking and behavior, employment, and parenting and family support.

As added by P.L.95-2013, SEC.1.

IC 33-23-16-10

"Veterans' court"

Sec. 10. As used in this chapter, "veterans' court" means a problem solving court focused on addressing the needs of veterans in the court system by:

- (1) bringing together substance abuse rehabilitation professionals, mental health professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible veterans to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-11

Establishment of a problem solving court

Sec. 11. A city court or county court may establish a problem

solving court. A problem solving court established under this section may be a:

- (1) drug court;
- (2) mental health court;
- (3) family dependency drug court;
- (4) community court;
- (5) reentry court;
- (6) domestic violence court;
- (7) veteran's court; or
- (8) any other court certified as a problem solving court by the Indiana judicial center under section 17 of this chapter.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-12

Jurisdiction and eligibility requirements for problem solving courts

Sec. 12. (a) A problem solving court and accompanying services of the problem solving court are available only to individuals over whom the court that established the problem solving court has jurisdiction.

(b) A problem solving court with criminal jurisdiction that does not have felony jurisdiction may assume jurisdiction over an individual convicted of a felony from another court within the county if the problem solving court returns the case to the referring court for additional proceedings when:

- (1) the individual has successfully completed the problem solving court's program; or
- (2) the individual's participation in the problem solving court program is terminated by the problem solving court.

(c) The board shall adopt rules prescribing minimum eligibility criteria for an individual to participate in a problem solving court program.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-13

Individual eligibility requirements

Sec. 13. An individual is eligible to participate in a problem solving court program only if:

- (1) the individual meets all of the eligibility criteria established by the board under section 12 of this chapter;
- (2) the judge of the problem solving court approves the admission of the individual to the problem solving court program; and
- (3) the individual is referred to the problem solving court as a result of at least one (1) of the following:
 - (A) A condition of a pretrial diversion program authorized by statute or authorized by the judge of the problem solving court and the prosecuting attorney.
 - (B) The procedure described in section 14 of this chapter.
 - (C) The procedure described in section 15 of this chapter.
 - (D) A condition of probation.

- (E) A condition of participation in a community corrections program under IC 11-12-1.
- (F) A condition of participation in a forensic diversion program under IC 11-12-3.7.
- (G) A condition of a community transition program under IC 11-10-11.5.
- (H) A condition of parole.
- (I) An order in a dispositional decree under IC 31-34-20 to participate in a family dependency drug court if the individual is a parent, guardian, or another household member of a child adjudicated a child in need of services.
- (J) A condition of an informal adjustment program under IC 31-37-9.
- (K) Involvement in:
 - (i) a child support proceeding;
 - (ii) a mental health commitment; or
 - (iii) a civil protection proceeding.
- (L) A condition of an informal adjustment program under IC 31-34-8.
- (M) A condition of a misdemeanor sentence.
- (N) A condition of a program authorized by the:
 - (i) judge of a problem solving court; and
 - (ii) department of correction or the county sheriff.

As added by P.L.108-2010, SEC.4. Amended by P.L.136-2012, SEC.7; P.L.95-2013, SEC.2.

IC 33-23-16-14

Deferred prosecution

Sec. 14. (a) A court, without entering a judgment of conviction, may defer proceedings against an individual and place the individual in a problem solving court program under this section only if:

- (1) the individual meets the conditions for eligibility set forth in section 13(1) and 13(2) of this chapter;
- (2) the individual pleads guilty and consents to the referral; and
- (3) the judge of the problem solving court, the prosecuting attorney, and the individual all agree upon certain conditions for the individual's participation in the problem solving court program and on the duration of those conditions.

(b) When an individual's participation in a problem solving court program under this section has been terminated as provided under section 14.5 of this chapter, the problem solving court shall:

- (1) enter a judgment of conviction against the individual;
- (2) refer the individual's case back to the court that referred the case to the problem solving court to allow the referring court to enter a judgment of conviction against the individual; or
- (3) otherwise dispose of the case.

(c) If an individual fulfills the conditions established by a problem solving court under subsection (a), the problem solving court shall:

- (1) dismiss the charges against the individual;
- (2) refer the individual's case back to the court that referred the

case to the problem solving court to allow the referring court to dismiss the charges against the individual; or

(3) otherwise dispose of the case.

As added by P.L.108-2010, SEC.4. Amended by P.L.187-2011, SEC.4.

IC 33-23-16-14.5

Termination of participation

Sec. 14.5. (a) A problem solving court may terminate an individual's participation in a problem solving court program if the individual has violated at least one (1) of the conditions of the individual's:

(1) participation agreement; or

(2) case management plan.

(b) If it is alleged that an individual has violated at least one (1) condition of a problem solving court program, the problem solving court may:

(1) remand the individual into custody;

(2) order a summons to be issued to the individual to appear; or

(3) order a warrant for the individual's arrest if there is a risk that the individual may:

(A) flee the jurisdiction; or

(B) cause harm to the individual or another individual.

(c) The problem solving court judge or other hearing officer shall conduct a hearing concerning an alleged violation of a condition of a problem solving court program as follows:

(1) The state must prove the violation by a preponderance of the evidence.

(2) The evidence must be presented in open court.

(3) The individual who is alleged to have committed the violation is entitled to:

(A) receive written notice of the alleged violation;

(B) obtain the disclosure of evidence against the individual;

(C) confront and cross-examine witnesses; and

(D) be represented by counsel.

(d) An individual participating in a problem solving court program may not be terminated from the problem solving court program for failure to pay a:

(1) problem solving court program service fee; or

(2) chemical testing fee;

assessed against the individual by the problem solving court unless the individual recklessly fails or willfully refuses to pay the assessed fee.

(e) Except as provided in sections 14 and 15 of this chapter, if the problem solving court judge or hearing officer finds that an individual participating in a problem solving court program has violated a condition of the program, the problem solving court judge or hearing officer may:

(1) continue the individual's participation in the problem solving court program with or without modifying or expanding the

individual's conditions for participating in the problem solving court program; or

(2) terminate the individual's participation in the problem solving court program.

As added by P.L.187-2011, SEC.5.

IC 33-23-16-15

Individuals with nonsuspendible sentences

Sec. 15. (a) A problem solving court may place an individual in a problem solving court program under this section if the individual is convicted of an offense that is nonsuspendible and the individual meets the conditions for eligibility set forth in section 13(1) and 13(2) of this chapter.

(b) If the requirements of subsection (a) are met, the court may:

(1) order the execution of the individual's nonsuspendible sentence and stay execution of all or part of the nonsuspendible part of the individual's sentence pending the individual's successful completion of a problem solving court program; and

(2) suspend all or part of the suspendible part of the individual's nonsuspendible sentence, place the individual on probation for the suspended part of the sentence, and require as a condition of probation that the person successfully complete a problem solving court program.

(c) If an individual has been terminated from a problem solving court program under this section as provided in section 14.5 of this chapter, the court may:

(1) if the person is serving the nonsuspendible part of the person's sentence:

(A) lift the stay of execution of the nonsuspendible part of the individual's sentence and order the individual to serve all or a part of the nonsuspendible sentence; or

(B) otherwise dispose of the case; or

(2) if the individual is serving the suspendible part of the individual's sentence:

(A) order all or a part of the individual's suspendible sentence to be executed; or

(B) otherwise dispose of the case.

(d) If an individual successfully completes a problem solving court program under this section, the court may:

(1) waive execution of the nonsuspendible part of the individual's sentence; or

(2) otherwise dispose of the case.

As added by P.L.108-2010, SEC.4. Amended by P.L.187-2011, SEC.6; P.L.136-2012, SEC.8.

IC 33-23-16-16

Certification of problem solving courts; personnel certification

Sec. 16. (a) As used in this section, "effective date" means the date established by the board after which minimum employment qualifications are required for persons employed by a problem

solving court program.

(b) A program established under this chapter is subject to the regulatory powers of the Indiana judicial center established under IC 33-38-9.

(c) The board:

(1) shall adopt rules establishing requirements and procedures for:

- (A) initial certification;
- (B) recertification; and
- (C) decertification;

of problem solving courts; and

(2) may adopt rules concerning educational and occupational qualifications for problem solving court employees.

(d) If the board adopts qualifications for the employees of problem solving courts under subsection (c)(2):

(1) the board shall establish an effective date after which a person employed by a problem solving court must meet the qualifications; and

(2) the qualifications do not apply to a person who is employed:

(A) by a certified problem solving court before the effective date; or

(B) as administrative personnel.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-17

Duties of the Indiana judicial center

Sec. 17. The Indiana judicial center shall:

(1) ensure that problem solving courts comply with the rules adopted under this chapter and applicable federal regulations;

(2) certify problem solving courts according to the requirements and procedures established under section 16(c)(1) of this chapter; and

(3) require, as a condition of operation, that each problem solving court created or funded under this chapter be certified according to the rules adopted by the board.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-18

Authority of the Indiana judicial center to revoke the certification of a problem solving court; implementation authority

Sec. 18. The Indiana judicial center may:

(1) revoke the certification of a problem solving court if the Indiana judicial center determines that the problem solving court does not comply with rules adopted under this chapter and applicable federal regulations; and

(2) enter into agreements or contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state educational institution or private postsecondary

educational institution; or
(E) a public or private agency;
to implement this chapter.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-19

Petition to establish a problem solving court

Sec. 19. (a) A court shall notify the Indiana judicial center of the court's intention to establish a problem solving court during the planning for the establishment of the problem solving court.

(b) A court seeking to establish a problem solving court must submit a petition for approval to the Indiana judicial center in accordance with rules adopted by the board.

(c) A problem solving court may not:

- (1) assess fees; or
- (2) collect fees;

until the problem solving court is certified by the Indiana judicial center.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-20

Services provided by a problem solving court

Sec. 20. (a) A problem solving court may provide the following services to individuals participating in problem solving court programs:

- (1) Screening for eligibility and other appropriate services.
- (2) Assessment.
- (3) Education.
- (4) Referral.
- (5) Service coordination and case management.
- (6) Supervision.
- (7) Judicial involvement.
- (8) Program evaluation.
- (9) Rehabilitative services.

(b) A problem solving court may not provide direct treatment services unless:

- (1) the problem solving court is certified by the division of mental health and addiction under IC 12-23-1-6;
- (2) the problem solving court uses licensed medical professionals who provide mental health treatment to individuals with psychiatric disorders; and
- (3) the court that establishes the problem solving court determines that existing community resources are inadequate to respond satisfactorily to the demand for services from the court.

As added by P.L.108-2010, SEC.4. Amended by P.L.95-2013, SEC.3.

IC 33-23-16-21

Powers of a problem solving court

Sec. 21. A court may take steps necessary to carry out the functions of the problem solving court, including the following:

- (1) Hiring employees as needed to perform the required functions of the problem solving court.
- (2) Establishing policies and procedures for the problem solving court.
- (3) Adopting local court rules as necessary for the problem solving court.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-22

Funding of problem solving courts

Sec. 22. (a) The costs of a problem solving court may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under IC 33-37-8.

(b) A problem solving court may apply for and receive the following:

- (1) Gifts, bequests, and donations from private sources.
- (2) Grants and contract money from governmental sources.
- (3) Other forms of financial assistance approved by the court to supplement the problem solving court's budget.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-23

Fees

Sec. 23. (a) The board shall adopt rules establishing a range of fees that may be assessed to an eligible individual to receive problem solving court services under this chapter.

(b) A court that has established a problem solving court under this chapter may require eligible individuals to pay a fee for problem solving court services.

(c) If a fee is required under subsection (b), the court shall adopt by local court rule a schedule of fees, consistent with the rules adopted by the board under subsection (a), to be assessed for problem solving court services.

(d) The problem solving court or the clerk of the court shall collect fees under this section. The fees must be transferred within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-37-8.

(e) Fees collected under this section must be used only to fund problem solving court services under this chapter.

As added by P.L.108-2010, SEC.4. Amended by P.L.136-2012, SEC.10; P.L.95-2013, SEC.4.

IC 33-23-16-23.5

Parents and guardians; financial responsibility for fees and expenses assessed against a child

Sec. 23.5. (a) A parent or guardian of a child:

- (1) who is:
 - (A) adjudicated a delinquent child; or

(B) in a program of informal adjustment approved by a juvenile court under IC 31-37-9; and
(2) who is accepted into a problem solving court program; is financially responsible for the problem solving court services fee and chemical testing expenses assessed against the child by the problem solving court under this chapter.

(b) A parent or guardian of a child described in subsection (a) shall, before a hearing under subsection (c) concerning payment of fees and expenses assessed against the child, provide financial information to the problem solving court as ordered by the problem solving court.

(c) The problem solving court shall hold a hearing and may order the parent or guardian to pay fees and expenses assessed against a child described in subsection (a) unless the problem solving court makes a specific finding that:

- (1) the parent or guardian is unable to pay the fees or expenses; or
- (2) justice would not be served by ordering the parent or guardian to pay the fees or expenses.

(d) If a parent or guardian is ordered to pay fees or expenses under this section, the parent or guardian shall pay the fees or expenses to the problem solving court or the clerk of the court. The problem solving court shall keep a record of all payments made under this section by each parent or guardian. When a child is discharged from a problem solving court program, the problem solving court shall determine the amount of any unpaid fees or expenses a parent or guardian owes under this section. The problem solving court may reduce the unpaid balance to a final judgment that may be enforced in any court that has appropriate jurisdiction.

As added by P.L.187-2011, SEC.7. Amended by P.L.136-2012, SEC.11.

IC 33-23-16-24

Chemical testing; expenses

Sec. 24. (a) A problem solving court may require an individual participating in a problem solving court program to undergo chemical testing.

(b) An individual may be liable for the cost of any or all chemical tests required by the problem solving court under subsection (a), including:

- (1) laboratory expenses; and
- (2) problem solving court expenses.

(c) A laboratory that performs a chemical test as ordered by a problem solving court under subsection (a) shall report the results to the problem solving court.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-25

Problem solving court fund

Sec. 25. (a) The Indiana judicial center problem solving court fund

is established for the purpose of administering, certifying, and supporting problem solving court programs under this chapter. The fund shall be administered by the Indiana judicial center.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-26

No right to participate in a problem solving court program

Sec. 26. An individual does not have a right to participate in a problem solving court program under this chapter.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-27

Staff immunity

Sec. 27. The coordinator and members of the professional and administrative staff of a problem solving court who perform duties in good faith under this chapter are immune from civil liability for:

(1) acts or omissions in providing services under this chapter;

and

(2) the reasonable exercise of discretion in determining eligibility to participate in a problem solving court program.

As added by P.L.108-2010, SEC.4.