

IC 34-26

**ARTICLE 26. SPECIAL PROCEEDINGS:
INJUNCTIONS AND RESTRAINING ORDERS**

IC 34-26-1

Chapter 1. Injunctions and Restraining Orders Generally

IC 34-26-1-1

Additional provisions concerning injunctions or restraining orders

Sec. 1. In addition to the injunctions and restraining orders discussed in this article, the following statutes also contain provisions concerning injunctions or restraining orders:

- (1) IC 32-30-6 (governing nuisance actions).
- (2) IC 32-30-7 (governing actions for indecent nuisance).
- (3) IC 34-24-2 (governing civil remedies for racketeering activities).

As added by P.L.1-1998, SEC.22. Amended by P.L.2-2002, SEC.91.

IC 34-26-1-2

Supreme court and justices authorized to grant restraining orders and injunctions

Sec. 2. Restraining orders and injunctions may be granted by the supreme court or a justice of the supreme court when necessary and proper for the due exercise of the jurisdiction and powers of the supreme court.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-3

Circuit courts and judges authorized to grant temporary injunctions or restraining orders

Sec. 3. (a) Restraining orders and injunctions may be granted by the circuit courts or the judges of the circuit courts in their respective counties.

- (b) If the circuit court judges are:
- (1) absent from their circuits; or
 - (2) by reason of sickness or other cause unable or incompetent to hear and determine the granting of a temporary injunction or restraining order;

any circuit court judge of an adjoining circuit may hear and determine the granting of a temporary injunction or restraining order.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-4

Judges authorized to make injunction or restraining order permanent or operable in other county; place of filing petition

Sec. 4. (a) The regular presiding judge in the county where the petition was filed shall hear and determine whether an injunction or restraining order issued under section 3(b) of this chapter (or IC 34-1-10-1 before its repeal) shall be made permanent.

- (b) The circuit courts, or the circuit court judges may, in any

county of the circuit, issue restraining orders or injunctions to operate in any other county in the circuit.

(c) All petitions for restraining orders and injunctions shall be filed in the clerk's office in the county in which the order or injunction is requested.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-5

Injunction to restrain act or proceeding; modification of injunction

Sec. 5. (a) This section applies:

(1) when it appears by the complaint that the plaintiff is entitled to the relief demanded, and the relief or any part of the relief consists in restraining the commission or continuance of some act, the commission or continuance of which, during the litigation, would produce great injury to the plaintiff;

(2) when, during the litigation, it appears that the defendant is:

(A) doing;

(B) threatening;

(C) about to do; or

(D) procuring or suffering to be done;

some act in violation of the plaintiff's rights, respecting the subject of the action, and tending to render the judgment ineffectual; or

(3) when the relief or part of the relief demanded by the plaintiff consists in restraining proceedings upon any final order or judgment.

(b) An injunction may be granted to restrain an act or proceeding described in subsection (a) until the further order of the court. The injunction may, afterwards, be modified upon motion.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-6

Temporary injunction to restrain removal or disposition of defendant's property

Sec. 6. When it appears:

(1) in the complaint at the commencement of the action; or

(2) during the pendency of the action by affidavit;

that the defendant threatens, or is about to remove or dispose of the defendant's property, with intent to defraud the defendant's creditors, a temporary injunction may be granted, to restrain the removal or disposition of the defendant's property.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-7

Complaint verified by affidavit; time for granting injunction

Sec. 7. In all applications for an injunction, the complaint or as much of the complaint as pertains to the acts or proceedings to be enjoined, must be verified by affidavit. The injunction may be granted at the time of commencing the action, or at any time afterwards before judgment is rendered in the proceeding.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-8

Hearing; access to affidavits or evidence

Sec. 8. On the hearing of an application for a restraining order or temporary injunction, each party may read affidavits or documentary or record evidence.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-9

Terms and conditions of injunction

Sec. 9. Upon the granting or continuing of an injunction, such terms and conditions may be imposed upon the party obtaining the injunction that are considered equitable.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-10

Second undertaking not required

Sec. 10. When an injunction is granted upon the hearing, after a temporary restraining order, the plaintiff shall not be required to enter into a second written undertaking unless the original undertaking is considered insufficient. However, the plaintiff and the plaintiff's surety remain liable upon the original undertaking.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-11

Issuance and service of copy of order on adverse party

Sec. 11. It is not necessary to issue a writ of injunction. However, the clerk shall issue a copy of the order of injunction, certified by the clerk, which shall be served promptly by delivering the order to the adverse party.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-12

Stay of proceedings; endorsement of release of errors upon complaint

Sec. 12. In applications to stay proceedings after judgment, the plaintiff shall endorse upon the complaint a release of errors in the judgment whenever required to do so by the judge or court.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-13

Money collected upon judgment; payment

Sec. 13. Money that is:

- (1) collected upon a judgment that is later enjoined; and
- (2) remains in the hands of the collecting officer;

shall be paid to the clerk of the court granting the injunction, subject to the order of the court.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-14

Attachment for contempt; rule to show cause; service

Sec. 14. (a) This section applies when it appears to any court or judge granting an order of injunction, by affidavit, that any person has willfully disobeyed the order.

(b) After giving notice, the court or judge shall award an attachment for contempt against the party charged or a rule to show cause why the attachment for contempt should not issue. The attachment or rule shall be issued by the clerk of the court, and directed to the sheriff, and shall be served by the sheriff.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-15

Attachment for contempt; arrest of party; indemnity

Sec. 15. The attachment for contempt shall be immediately served by arresting the party charged, and bringing the party into court, if in session, to be dealt with as in other cases of contempt. The court shall also take all necessary measures to secure and indemnify the plaintiff against damages in the premises.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-16

Arrest; undertaking; commitment to jail

Sec. 16. (a) If the court is not in session, the officer making the arrest shall cause the person to enter into a written undertaking, with surety to be approved by the officer. The written undertaking must contain the person's assurances to:

- (1) personally appear in open court;
- (2) answer the contempt; and
- (3) pay to the plaintiff all damages and costs occasioned by the breach of the order.

(b) In default of the provisions in subsection (a), the person shall be committed to the jail of the county, until the person enters into a written undertaking with surety, or is otherwise legally discharged.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-17

Stay of proceedings; dissolution; damages

Sec. 17. (a) This section applies when an injunction to stay proceedings after judgment for debt or damages is dissolved.

(b) The court shall award damages, not exceeding ten percent (10%), on the judgment, as the court considers right against the party in whose favor the injunction issued.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-18

Stay of proceedings; recovery of real estate; damages

Sec. 18. (a) This section applies if an injunction to stay proceedings after verdict or judgment in an action for the recovery or possession of real estate is dissolved.

(b) The damages assessed against the party obtaining the injunction shall include the reasonable rents and profits of the land recovered and all waste committed after granting the injunction.
As added by P.L.1-1998, SEC.22.