

IC 33-40-3

Chapter 3. Supplemental Funding for Public Defender Services

IC 33-40-3-1

Supplemental public defender services fund; establishment

Sec. 1. A supplemental public defender services fund is established in each county. The fund consists of amounts deposited under:

(1) section 9 of this chapter; and

(2) IC 35-33-8-3.3.

As added by P.L.98-2004, SEC.19. Amended by P.L.173-2006, SEC.41.

IC 33-40-3-2

Appropriation

Sec. 2. The fiscal body of the county shall appropriate money from the fund to supplement and provide court appointed legal services to qualified defendants.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-3

Use of fund

Sec. 3. The supplemental public defender services fund may be used only to supplement the provision for court appointed legal services and may not be used to replace other funding of court appointed legal services.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-4

Reversion of money in fund

Sec. 4. Any money remaining in the fund at the end of the calendar year does not revert to any other fund but continues in the supplemental public defender services fund.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-5

Multiple court appointed legal service programs

Sec. 5. A county may not have more than one (1) program providing court appointed legal services in the county, unless the fiscal body of the county agrees to allow additional court appointed legal services programs in the county.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-6

Payment of costs by person or parent of delinquent child; maximum costs

Sec. 6. (a) If at any stage of a prosecution for a felony or a

misdeemeanor 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 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.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-7

Determination of ordering payment of costs

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.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-8

Order for costs as a civil judgment; relief from payment

Sec. 8. An order for costs assessed under section 6 of this chapter is a civil judgment subject to the exemptions allowed debtors under IC 34-55-10-2. At any time after entry of the order, the defendant may petition the court that has entered the order for relief from

payment. The court may release the defendant from payment of all or a part of the payment required by the order if the court finds that payment would impose a hardship upon the defendant or dependents of the defendant.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-9

Collection and deposit of fees

Sec. 9. Fees assessed under section 6 of this chapter shall be collected by the program providing court appointed legal services in the county. These fees shall be deposited in the supplemental public defender services fund established under section 1 of this chapter.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-10

Establishment of fund in counties where public defender services not provided

Sec. 10. (a) In a county with a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000) in which a county public defender service is not provided, a supplemental public defender services fund must be established in each city for providing funding for a public defender to represent indigent defendants in a city court.

(b) Sections 2 through 9 of this chapter apply to the locally established supplemental public defender services fund established under subsection (a). However, funds otherwise required to be delivered to the county fiscal officer for maintaining a supplemental public defender services fund under this chapter shall be deposited with the local fiscal officer.

As added by P.L.98-2004, SEC.19.