

## **IC 9-33-2**

### **Chapter 2. Material Error Review**

#### **IC 9-33-2-1**

##### **Determination of material error; review by bureau; notice; judicial review**

Sec. 1. (a) If a person determines that the records of the bureau contain a material error with respect to the person or the person's records, the person may notify the bureau in writing of the material error.

(b) Not more than thirty (30) days after the bureau receives notice under subsection (a), the bureau shall determine if a material error was made.

(c) If the bureau determines that a material error was made with respect to the person's records, the bureau shall provide written notice to the person and correct the error, including removing any suspension of the person's driving privileges or registration and reinstating the person's driving privileges or registration.

(d) If the bureau determines that a material error exists with respect to an action under IC 9-30-10, the bureau shall notify the prosecuting attorney of the county in which the action originated of the bureau's determination of the material error. The prosecuting attorney is entitled to respond to the bureau's determination.

(e) A person aggrieved by the bureau's determination of a material error under this section may seek judicial review of the determination under section 3 of this chapter.

*As added by P.L.149-2015, SEC.110.*

#### **IC 9-33-2-2**

##### **Actions taken by bureau; judicial review**

Sec. 2. (a) The bureau may modify, amend, or cancel any order issued or determination made under this chapter at any time before the deadline to seek judicial review of the order or determination under section 3 of this chapter has passed.

(b) A person aggrieved by a modification, amendment, or cancellation under subsection (a) may seek judicial review of the modification, amendment, or cancellation under section 3 of this chapter.

*As added by P.L.149-2015, SEC.110.*

#### **IC 9-33-2-3**

##### **Judicial review; petition; contents; stay of underlying action**

Sec. 3. (a) A person aggrieved by an action under this article may file a petition in the circuit or superior court of the county in which the person resides. A nonresident may file a petition for review in the Marion County circuit court.

(b) The person must file the petition not more than fifteen (15) days after the earlier of:

- (1) the date on which the person receives written notice under section 1 of this chapter; or
- (2) the expiration of the thirty (30) day period under section 1(b) of this chapter.
- (c) A petition filed under subsection (a) must:
  - (1) be verified by the petitioner;
  - (2) state the petitioner's age, date of birth, place of residence, and driver's license identification number;
  - (3) state the action under section 1 of this chapter from which the person seeks relief;
  - (4) include a copy of any written order or determination made by the bureau with respect to the action;
  - (5) state the grounds for relief, including all facts showing that the bureau's action is wrongful or unlawful; and
  - (6) state the relief sought.

(d) The filing of a petition under this section does not automatically stay the underlying action. The court in which the petition is filed may stay the underlying action pending final judicial review if the court determines that the petition states facts that show a reasonable probability that the action is wrongful or unlawful.

(e) This subsection applies to a petition that alleges a material error with respect to an action taken by the bureau under IC 9-30-10. Not more than six (6) months after the petition is filed, the court shall hear the petition, take testimony, and examine the facts of the case. In disposing of the petition, the court may modify, affirm, or reverse the action of the bureau in whole or in part and shall issue an appropriate order. If the court fails to hear the petition in a timely manner, the original action of the bureau is reinstated in full force and effect.

*As added by P.L.149-2015, SEC.110. Amended by P.L.198-2016, SEC.631.*

#### **IC 9-33-2-4**

#### **Summons; service; application of rules of trial procedures; court costs and fees**

Sec. 4. (a) A summons in a proceeding under this chapter shall be issued and served in the manner provided for civil actions. In a proceeding to review an action taken by the bureau under IC 9-30-10, the summons and a copy of the petition shall be served on the prosecuting attorney of the county in which the petition is filed and the bureau. In a proceeding to review any other action taken by the bureau, the summons and a copy of the petition shall be served on the attorney general and the bureau.

(b) The petitioner bears the burden of proof by a preponderance of the evidence to prevail in a proceeding under this chapter.

(c) IC 9-30-3-15 and the rules of trial procedure apply in a proceeding under this chapter. However:

- (1) a responsive pleading is not required when a petition for

review has been filed; and

(2) a person is not entitled to a change of venue from the county.

(d) In a proceeding to review an action taken by the bureau under IC 9-30-10, the prosecuting attorney of the county in which the petition is filed shall represent the state in relation with the bureau. In a proceeding for any other action taken by the bureau, the attorney general shall represent the state in relation with the bureau.

(e) Court costs, including fees, shall be assessed and paid by the petitioner at the time of filing in an amount equal to the costs, including fees, assessed in the enforcement of infractions. However, a petitioner whose driving privileges have been reinstated under IC 9-30-10 is entitled to a refund of all court costs, including fees.

*As added by P.L.149-2015, SEC.110.*

### **IC 9-33-2-5**

#### **Docketing of cause; bureau not liable for costs**

Sec. 5. On the filing of a petition for judicial review under this chapter, the cause shall be docketed by the clerk of the court in the name of the petitioner against the bureau. The issues shall be considered closed by denial of all matters at issue without the necessity of filing any further pleadings. The bureau is not liable or taxable for any cost in any action for judicial review under this chapter.

*As added by P.L.149-2015, SEC.110.*