



March 14, 2023

ENGROSSED HOUSE BILL No. 1493

DIGEST OF HB 1493 (Updated March 13, 2023 10:47 am - DI 140)

Citations Affected: IC 31-40; IC 33-23; IC 33-37; IC 33-40.

Synopsis: Elimination of costs and fees in juvenile court. Provides that a parent is presumed indigent for purposes of parental payment or reimbursement for services provided by the department of child services to a child adjudicated delinquent or a child in need of services. Further provides that, when the department of correction is awarded wardship of a child, the juvenile court may not order a parent to pay or reimburse the department unless the juvenile court makes a specific finding that the parent is able to pay. Removes fees and costs associated with a child alleged to be a delinquent child from the supplemental public defender services fund and the public defense administration fee. Allows the alternative dispute resolution fund (fund) to be used for guardian ad litem services. Requires the court to determine whether, when a party is charged or convicted with a crime against the person, participation in services provided by the fund poses an unreasonable risk of harm. Makes conforming changes.

Effective: July 1, 2023.

McNamara, Steuerwald, Klinker, Morrison

(SENATE SPONSORS — CRIDER, FORD JON)

January 17, 2023, read first time and referred to Committee on Courts and Criminal Code.
February 9, 2023, amended, reported — Do Pass.
February 13, 2023, read second time, ordered engrossed.
February 14, 2023, engrossed. Read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 27, 2023, read first time and referred to Committee on Family and Children Services.

March 13, 2023, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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March 14, 2023

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.

ENGROSSED HOUSE BILL No. 1493

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

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

- 1 SECTION 1. IC 31-40-1-3, AS AMENDED BY P.L.101-2022,
2 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 3. (a) **Subject to subsection (f)**, a parent or
4 guardian of the estate of a child adjudicated a delinquent child or a
5 child in need of services is financially responsible as provided in this
6 chapter (or IC 31-6-4-18(e) before its repeal) for any services provided
7 by or through the department.
8 (b) Each person described in subsection (a) shall, before a hearing
9 under subsection (c) concerning payment or reimbursement of costs,
10 furnish the court and the department with an accurately completed and
11 current child support obligation worksheet on the same form that is
12 prescribed by the Indiana supreme court for child support orders.
13 (c) At:
14 (1) a detention hearing;
15 (2) a hearing that is held after the payment of costs by the
16 department under section 2 of this chapter (or IC 31-6-4-18(b)
17 before its repeal);

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1 (3) the dispositional hearing; or

2 (4) any other hearing to consider modification of a dispositional
3 decree;

4 the juvenile court ~~shall~~ **may not** order the child's parents or the
5 guardian of the child's estate to pay for, or reimburse the department for
6 the cost of services provided to the child or the parent or guardian
7 unless the court makes a specific finding that the parent or guardian is
8 **unable able** to pay. ~~or that justice would not be served by ordering~~
9 ~~payment from the parent or guardian.~~

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

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

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

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

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

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



1 for a child.

2 (b) Each parent shall, before a hearing under subsection (a), furnish
3 the juvenile court and the department of correction with an accurately
4 completed and current child support obligation worksheet on the same
5 form that is prescribed by the Indiana supreme court for child support
6 orders.

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

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

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

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

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

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

42 (i) The department of correction shall deposit money collected



1 under this section in the division of youth services transitional services
2 fund established by IC 11-10-2-11.

3 SECTION 3. IC 33-23-6-2, AS AMENDED BY P.L.142-2020,
4 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2023]: Sec. 2. (a) In each county participating in the program
6 under this chapter, there is established an alternative dispute resolution
7 fund for each of the following:

8 (1) The circuit court.

9 (2) The superior court.

10 (3) The probate court established by IC 33-31-1.

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

15 (1) the:

16 (A) county auditor; and

17 (B) judge of each court that exercises jurisdiction over
18 domestic relations and paternity cases in the county;

19 agree to establish one (1) fund; and

20 (2) the agreement to establish the fund is included in the plan
21 adopted by the county under section 3 of this chapter.

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

24 (1) the alternative dispute resolution fee collected under section
25 1 of this chapter for the circuit court, superior court, or probate
26 court, respectively; and

27 (2) copayments collected under subsection (d) if:

28 (A) a county chooses to deposit the copayments into the fund;
29 and

30 (B) the county specifies in the plan adopted by the county
31 under section 3 of this chapter that the copayments will be
32 deposited in the fund.

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

35 (1) mediation;

36 (2) reconciliation;

37 (3) nonbinding arbitration; ~~and~~

38 (4) parental counseling; **and**

39 **(5) guardian ad litem services.**

40 Litigants referred by the court to services covered by the fund shall
41 make a copayment for the services in an amount determined by the
42 court based on the litigants' ability to pay. The fund shall be



1 administered by the circuit, superior, or probate court that exercises
 2 jurisdiction over domestic relations and paternity cases in the county.
 3 A fund used by multiple courts under subsection (b) shall be
 4 administered jointly by all the courts using the fund. Money in each
 5 fund at the end of a fiscal year does not revert to the county general
 6 fund but remains in the fund for the uses specified in this section.

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

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

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

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

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

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

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

32 the clerk shall collect a public defense administration fee of five dollars
 33 (\$5).

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

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



- 1 other costs assessed against the person:
- 2 (1) Reasonable attorney's fees if an attorney has been appointed
- 3 for the person by the court.
- 4 (2) Costs incurred by the county as a result of court appointed
- 5 legal services rendered to the person.
- 6 (b) The clerk of the court shall deposit costs collected under this
- 7 section into the supplemental public defender services fund established
- 8 under section 1 of this chapter.
- 9 (c) A person ordered to pay any part of the costs of representation
- 10 under subsection (a) has the same rights and protections as those of
- 11 other judgment debtors under the Constitution of the State of Indiana
- 12 and under Indiana law.
- 13 (d) The sum of:
- 14 (1) the fee collected under IC 35-33-7-6;
- 15 (2) any amount assessed by the court under this section; and
- 16 (3) any amount ordered to be paid under IC 33-37-2-3;
- 17 may not exceed the cost of defense services rendered to the person.
- 18 **(e) A court may not require payment for costs or fees under this**
- 19 **section for a child alleged to be a delinquent child.**
- 20 SECTION 6. IC 33-40-3-7 IS AMENDED TO READ AS
- 21 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) If a defendant ~~or~~
- 22 ~~a child alleged to be a delinquent child~~ is receiving publicly paid
- 23 representation, the court shall consider:
- 24 (1) the person's independently held assets and assets available to
- 25 the spouse of the person or the person's parent if the person is
- 26 unemancipated;
- 27 (2) the person's income;
- 28 (3) the person's liabilities; and
- 29 (4) the extent of the burden that payment of costs assessed under
- 30 section 6 of this chapter would impose on the person and the
- 31 dependents of the person.
- 32 (b) If, after considering the factors described in subsection (a), the
- 33 court determines that the person is able to pay the costs of
- 34 representation, the court shall enter a finding that the person is able to
- 35 pay those additional costs.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1493, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 2 and 3, begin a new paragraph and insert:

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

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- (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."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1493 as introduced.)

MCNAMARA

Committee Vote: yeas 12, nays 1.

COMMITTEE REPORT

Madam President: The Senate Committee on Family and Children Services, to which was referred House Bill No. 1493, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1493 as printed February 9, 2023.)

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WALKER G, Chairperson

Committee Vote: Yeas 6, Nays 0

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