

FISCAL REPORT OF INDIANA TRIAL COURTS

Indiana Code 33-24-6-3(a)(2) directs the Division of State Court Administration to collect and compile statistical data on the receipt and expenditure of public monies by and for the operation of the courts. Each court, whether single or unified, must file with the Division its Report on Court Revenue (“Revenue Report”) and its Report on Budget & Expenditures (“Budget & Expenditure Report”).

The information in this volume presents a general financial overview of the reported expenditures of Indiana’s courts and revenues generated through their operation. Volume III contains a more comprehensive review of the revenues and expenditures generated by each of the state courts. While the trial courts’ requested and approved budgets are available, they are not published in the annual report. The financial information is gathered on an annual basis at the close of each calendar year.

EXPENDITURES

The Indiana Judicial system is funded primarily from county tax revenues with municipal and township funds paying for the minor courts and state funds paying for appellate level courts and salaries of state trial court judges. The Supreme Court, Court of Appeals and Tax Court are funded through appropriations from the state general fund. The Indiana State Auditor’s Report contains information about the expenditures by these courts and other state-level expenditures on judicial functions. Relevant portions of that report are reflected here in the Judicial Year in Review.

Indiana’s trial courts, on the other hand, are funded primarily through county

funds. State funds pay for the judges’ and magistrates’ salaries and for senior and some special judge expenses. The counties may also receive state funds for reimbursement for approved pauper defense services and for GAL/CASA services for abused and neglected children. Courts also generate user fees, some of which are expended on court services. The counties also may pay an additional amount towards the judges’ and magistrates’ salaries.

Municipalities fund city and town courts. In many instances the local government does not maintain a distinct city or town court budget, and all expenses are paid directly from the local general fund. This practice makes it difficult to provide accurate expenditure information on the city and town courts.

Marion County Indianapolis townships directly fund the Marion County Small Claims Courts through budget appropriations.

The Budget & Expenditure Report that is filed by each court categorizes the trial court expenditures as follows: salaried and unsalaried personnel expenses, services, capital outlays, and travel. If any of the expenditures were facilitated by mandate, the report reflects information related to the mandate as well.

REVENUE REFERENCES

The trial courts generate revenue primarily from filing fees, court costs, fines and user fees assessed to the litigants. Revenues generated through the operation of the trial courts are collected, accounted for and disbursed by the Clerk of the Circuit Court, an independently elected constitutional office for each

Judicial Circuit. The Clerk of the Circuit Court also functions as the clerk of the county and, as such, performs many other functions that are not related to court operations, including issuing marriage licenses, coordinating the election board, and conducting elections for the county and state.

Revenues generated through the city, town, and Marion County Small Claims Courts are collected by the local clerk and disbursed pursuant to statutory provisions, to the state, county, or local general fund, or to a list of specific funds established by the General Assembly for specific programs and services. The only direct payment fee is the personal service of process fee charged to small claims litigants in the Marion County Small Claims Courts. This fee is paid to the constable and his or her deputies.

COSTS AND FEES ROUTINELY CHARGED

Court Costs: The court cost is the basic expense for filing a civil case and the basic cost assessed upon a conviction in a criminal case or a judgment in an infraction or ordinance violation. The statutory costs in all courts are as follows:

Felony or misdemeanor (upon conviction): \$120.00 (I.C. § 33-37-4-1(a)).

Infraction or ordinance violation (upon judgment, with some exceptions): \$70.00 (I.C. § 33-37-4-2(a)).

Juvenile action (including CHINS, delinquency and paternity): \$120.00 (I.C. § 33-37-4-3(a)).

Civil action (at case filing): \$100.00 (I.C. § 33-37-4-4(a), but see exempted civil and juvenile actions); service fee for additional defendants \$10 (I.C. § 33-37-4-6).

Small claim – all courts except Marion County Small Claims (at case filing): \$35.00 (I.C. § 33-37-4-6); Small claims service fee for additional defendants: \$10 (I.C. § 33-37-4-6(a)).

Probate/trust (at case filing): \$120.00 (I.C. § 33-37-4-7(a)).

These costs include the cost of service of process by mail with return receipt requested for one defendant, unless otherwise indicated. In accord with I.C. § 33-37-5-15(b), *one* additional \$13 to \$60 fee is charged for service of process by the sheriff, depending if the case originates in Indiana or elsewhere.

The court costs collected in the circuit, superior, probate and county courts are distributed to the State, County and Local general funds in the following percentages: 70% to the state, 27% to the county and 3% to the local level general fund.

The costs collected in the city and town courts are distributed as follows: 55% to the state, 20% to the county and 25% to the city or town general fund.

The following fees in this section are always collected even if they are handled through pre-trial diversion or deferral:

Judicial Salaries Fee: This fee is imposed for all case types. For small claims cases, the fee is \$12. For all other case filings, the fee is \$17. This fee increases by \$1 every year the judicial salaries are increased by the General Assembly. City and town courts and small claims courts may keep 25% of the fee collected to fund city or town court operations. The remaining fee amounts are reported in the state level funds column, all deposited in the general fund. The Circuit and Superior Courts report 100% of the fee in the state column for deposit in the general fund.

Document Storage Fee: For maintaining court records, the clerk collects this \$2 fee in every action. Money collected from this fee is deposited into the Clerk's Record Perpetuation Fund, which may be used by clerks for the preservation of records or for the improvement of record keeping systems and equipment. It is reported as county level or local level specific funds depending on the reporting court.

Automated Record-Keeping Fee: This fee is imposed for all case types⁴⁴. The fee is set at \$7 until June 30, 2011, when it will decrease to \$4. This fee is the primary funding source for the Judicial Technology and Automation Committee. The court reports this fee at the state level, for deposit in the state user fee fund.

Public Defense Administration Fee: This \$3 fee is imposed for all case types. It is reported in the state level funds column. Previously, this fee was titled the Judicial Administration Fee. It is deposited in the general fund. (I.C. § 33-37-5-21.2; I.C. § 33-37-7-2(i)(1)).

Judicial Insurance Adjustment Fee: This \$1 fee is collected in all cases. It is reported by all courts in the state level funds column for deposit in the state judicial branch insurance adjustment account.

Court Administration Fee: This \$5 fee is imposed in all cases including Marion County Small Claims cases. All 100% of the fee is reported by all courts excluding Marion County Small Claims courts in the state level funds column, for deposit in the general fund to help fund the pension fund for judges and magistrates. Marion County Small Claims shall report 60% (or \$3) in the state level funds column and retain the remaining \$2 and disburse it to the township trustee to fund the operations of the small claims court.

⁴⁴ Effective 7/1/09, when an accused is placed in an infraction deferral or pretrial diversion program, the \$7 fee will be deposited in the Attorney General's homeowner protection unit account.

FEES CHARGED ROUTINELY IN CRIMINAL, INFRACTION AND ORDINANCE VIOLATION CASES

DNA Sample Processing: This \$2 fee is assessed to anyone convicted of a felony or misdemeanor, found to have committed an infraction or ordinance violation or required to pay a pretrial diversion fee. Money collected from this fee is reported in the state level funds column, for deposit in the state general fund, and further deposited in the DNA sample-processing fund by the state auditor.

Jury Fee: This \$2 fee is imposed when a defendant is found to have committed a crime, violated a statute defining an infraction or violated an ordinance of a municipal corporation. Even though this fee is considered a user fee, it is reported separately, under the county or local level funds, depending on the collecting court, for deposit in the relevant user fee fund, for further deposit by the county auditor in the jury pay fund established under I.C. § 33-37-11.

Law Enforcement Continuing Education Program Fee: This is a \$4 fee that is charged in each criminal conviction and each infraction and ordinance violation. The fee total is reported in the county or local level column, depending upon the court collecting, to be deposited in the relevant user fee fund. This fee is considered a user fee but is discussed separately from the other user fees because of the frequency with which the fee is charged in criminal cases.

USER FEES REGULARLY CHARGED IN CERTAIN CRIMINAL CASES

In addition to court costs and the fees shown above, the General Assembly has established a number of additional special fees, which are assessed in certain

cases. They are designated for special programs or purposes operating at the state, county or local level. The Revenue Report reflects the amounts generated through such fees for state, county and local level user fee funds collectively. The following is the distribution and description of such additional fees that comprise the collected report entries.

The following percentages of fees are distributed to the State User Fee Fund:

25% of the drug abuse, prosecution, interdiction, and corrections fees;

25% of the alcohol and drug countermeasures fees;

50% of the child abuse prevention fee;

100% of the domestic violence prevention and treatment fees;

100% of the highway work zone fees;

100% of the safe school fees, and

100% of automated record keeping fee.

Distribution of user fees to County User Fee Funds - Each county's user fee fund is used to finance various programs and services, and is administered by the auditor in each county. The following fees are deposited in this fund:

Pretrial Diversion fees;

Informal adjustment program fees;

Marijuana eradication program fees;

Alcohol and Drug services fees;

Law enforcement continuing education program fees;

Drug court fees;

Deferral program fee;

Jury fee, and

Reentry Court Fee.

Distribution of user fees to Local User Fee Funds - In city or town courts the following fees are deposited in the city or town user fee fund:

Pretrial Diversion Program Fee;

Alcohol and Drug Services Fee;

Law Enforcement Continuing Education Program Fee;

Drug Court Fees;

Deferral Program Fee, and

Reentry court fee.

The following are descriptions of the user fees:

A. Drug Abuse, Prosecution, Interdiction and Corrections Fee: The court must assess this fee of at least \$200 and not more than \$1,000 against a person convicted in any court (including city and town courts) of a controlled substance offense. In determining the amount of the fee, the court must consider the person's ability to pay. Twenty-five percent (25%) of the fee is reported in the state level column under user fees for deposit in the general fund and seventy-five percent (75%) is reported in the county level column for deposit into the County Drug Free Community Fund.

B. Alcohol and Drug Countermeasures Fee: In each action in which a person is found to have committed an OVWI offense or a person who has been adjudicated a delinquent for an act that would be an OVWI if committed by an adult, and the

person's driving privileges are suspended, the clerk shall collect an Alcohol and Drug Countermeasures fee of \$200. Twenty-five percent (25%) of the fee is reported in the state level column under user fees for deposit in the general fund and seventy-five percent (75%) is reported in the county level column for deposit in the County Drug Free Community Fund.

C. Child Abuse Prevention Fee: This \$100 fee is assessed against a defendant who is found guilty of certain criminal offenses involving a victim who is less than eighteen years of age. Fifty percent (50%) of the fee is reported in the state level column for deposit in the state user fee fund. The other fifty percent (50%) is reported separately in the county level column for deposit in the county child advocacy fund.

D. Domestic Violence Prevention and Treatment Fee: This \$50 fee is charged in each criminal action in which the defendant is found guilty of murder, causing suicide, voluntary manslaughter, reckless homicide, battery and rape against his or her spouse (or person with whom the defendant lives as a spouse or with whom defendant shares a child). The fee total is reported in the state level column for deposit in the user fee fund.

E. Highway Work Zone Fee: A fifty-cent (\$0.50) highway work zone fee is charged in each traffic offense, including traffic infractions, misdemeanors and ordinance violations. If the offense involves exceeding a worksite speed limit or failure to merge, the fee is \$25.50. The fee total is reported in the state level column for deposit in the user fee fund.

F. Safe Schools Fee: In each criminal action in which a person is convicted of an offense in which the possession or use of a firearm was an element of the offense, the court may assess a safe school fee of \$200 to \$1,000, based on the defendant's ability to pay. The fee total is reported in

the state level column for deposit in the user fee fund.

G. Informal Adjustment Program Fee: This fee of \$5 to \$15 per month may be ordered by the court to be paid in cases, in lieu of court cost fees, where a juvenile has been placed in an informal adjustment program prior to having a delinquency petition filed. The fee total is reported in the county level column for deposit in the user fee fund. As of March 18, 2008, this fee for CHINS cases was repealed and not replaced. Therefore, the fee is not charged in CHINS matters. However, the court may still charge the fee in delinquency cases filed under 31-37-9-9.

H. Marijuana Eradication Program Fee: In any conviction relating to controlled substances in a county with a weed control board, the court may assess up to \$300 for this fee. The fee total is reported in the county level column for deposit in the user fee fund.

I. Alcohol and Drug Services Fee: If a county has established an alcohol and drug services program, this fee may be collected by a schedule adopted by the court (including city and town courts) in criminal, infraction and ordinance violations. It is set by court rule and may not exceed \$400. The fee total is reported in the county or local level column, depending upon the court collecting, to be deposited in the relevant user fee fund.

J. Drug Court Fee: This fee applies to proceedings conducted in a certified drug court established by the county. The court shall adopt a fee schedule and the fee shall not exceed \$500. The fee total is reported in the county or local level column, depending upon the court collecting, to be deposited in the relevant user fee fund.

K. Reentry Court Fee: If a court establishes a reentry court, it may require an eligible individual to pay the fee for reentry services. The court shall adopt a

schedule of fees assessed but it may not exceed the reasonable expenses for direct services incurred in providing the reintegration services. The fee total is reported in the county or local level column, depending upon the court collecting, to be deposited in the relevant user fee fund.

ADDITIONAL FEES CHARGED IN CRIMINAL CASES, INCLUDING PRETRIAL DIVERSION AND DEFERRAL PROGRAMS

Pretrial Diversion Fees: The prosecuting attorney may withhold the prosecution of a person charged with a misdemeanor if the person agrees to conditions of a pre-trial diversion program offered by the prosecutor. Unless waived by the agreement, the accused is charged a deferred prosecution fee of \$120, as well as \$50 as an initial fee and \$10 for each month he or she remains in the program, along with the other routinely charged fees in a criminal case identified above. The total collected is reported in the county or local column for deposit in the relevant user fee fund.

Deferral Program Fee: When the county prosecutor or attorney for the municipal corporation sets up a deferral program for infractions and ordinance violations, a deferral program fee is assessed in lieu of the standard court costs and judgments. The program consists of an agreement with the prosecutor under I.C. § 34-28-5-1, whereby the defendant agrees to pay a program fee consisting of an initial user's fee of up to \$52 and a monthly user fee not to exceed \$10. The fee total is reported in the county or local level column, depending upon the court collecting, to be deposited in the relevant user fee fund.

Adult Probation User's Fee: This category reflects user fees charged to adults placed on probation after a

conviction of a felony or misdemeanor. In felony cases the \$100 administrative fee is mandatory; along an initial fee ranging between \$25 and \$100 and a monthly user's fee ranging between \$15 and \$30 for each month the person remains on probation. In misdemeanor cases, the probation \$50 administrative fee is optional with the court. In addition the initial fee cannot exceed \$50 and the monthly fee cannot exceed \$20. The fees are deposited in the county supplemental adult probation services fund that is used for probation services, with the clerk collecting the fee, keeping up to 3% of the fee to defray administrative costs. The 3% is deposited in the clerk's record perpetuation fund. The clerk may be asked to deposit an additional 3% of the probation user fee in the county, city or town general fund depending upon the requesting fiscal officer.

Juvenile Probation User's Fee: A court may order a juvenile and/or the parent of a juvenile who is placed on supervision to pay an initial user fee from \$25 to \$100 and a monthly user fee from \$10 to \$25. If a delinquent child is supervised, the administrative fee is \$100, which is collected before the other probation user fees. These fees are deposited in the county supplemental juvenile probation services fund. As with the adult probation user fee, if the clerk collects the fee, the clerk may keep up to 3% to defray administrative costs (deposited in the clerk's record perpetuation fund) and up to 3% for the county general fund.

Sexual Assault Victims Assistance Fee: This fee is imposed when a defendant is convicted of rape, criminal deviate conduct, child molestation, child exploitation, vicarious sexual gratification, child solicitation, child seduction, sexual battery, sexual misconduct with a minor as a Class A or Class B felony, or incest. The fee ranges from \$250-\$1000. It is reported in the state level column, for deposit into the Sexual Assault Victims Assistance Fund.

Supplemental Public Defender Fee:

When public funds have been expended on defense, the court must order the clerk to remit the difference, if any, between the bond deposit and the cost of pauper defense and to retain the rest. The retained amount is deposited in a Supplemental Public Defender Services Fund, part of the County Level funds. If the Court determines that the defendant is able to pay a portion of the costs of assigned counsel, the court shall order a fee of \$100 for felony charge or \$50 for misdemeanor charge.

Bond Administration Fee: This category reflects amounts collected through a fee charged to defendants posting bond. When a defendant executes a bail bond with the clerk, 10% or \$50.00, whichever is less, may be retained as the administrative fee. This fee goes to the county general fund or local general fund if collected in a city or town court.

Special Death Benefit Fee: When the clerk or sheriff collects the bail posted under I.C. 35-33-8-3.2, he or she shall remit \$5 to the county auditor for deposit in the special death benefit fund by the trustees of the public employees' retirement fund. This fee is required in addition to the bond administrative fee.

Late Surrender Fee: When a bonded defendant fails to appear, a late surrender fee based on a percent of the value of the bond is assessed against the bondsman. Fifty percent (50%) of this fee is deposited in the Police Pension Trust Fund (Local level column) and fifty percent (50%) is deposited in a county extradition fund (county level column).

Fines and Forfeitures: Fines and forfeitures are assessed in criminal convictions. Under the Indiana Constitution Article VIII §2, all fines and forfeitures are reported in the state level column for deposit in the State Common School Fund. These monies are not

considered fees but are assessed by the court in addition to the court costs and fees described herein.

Civil Penalties for Infraction Judgments: This category reflects monies collected as infraction judgments in cases in which a defendant is found to have committed an infraction. These funds are reported in the state level column and are deposited in the state general fund. Effective 7/1/07, judgments in worksite speed limit violations, under certain circumstances, were designated for the Indiana Department of Transportation.

Civil Penalties for Local Ordinance Violations: This category reflects amounts collected as judgments for local ordinance violations. These funds are reported in the county and local level columns based on whether the ordinance is countywide or a city or town ordinance, for deposit in the general fund.

Vehicle License Judgments: These monies are collected as an infraction judgment in overweight vehicle cases. They are reported in the state level column and deposited in the state highway fund.

Other Criminal Fees: Even though the following fees are set by statute, the courts are directed to report the revenue in the "other" category, used to report miscellaneous fees. These fees, while important, remain in the discretion of the court to assess and do not generate as much revenue as the other separately identified fees. These include the following: Alcohol abuse deterrent fee along with the Medical fee—up to \$400 and \$150 respectively—which is charged when a defendant is participating in a county run Alcohol Abuse Deterrent Program for driving infractions (I.C. § 9-30-9-8); Lab Test for HIV—maximum amount not listed—if ordered by the court when a defendant, on probation, has committed a qualifying act (I.C. § 35-38-2-2.3); Emergency Medical Service Restitution – not to exceed \$1,000—charged when a

defendant is sentenced, with or without probation, and the misdemeanor or felony necessitated the need for medical services (I.C. § 9-30-5-17); and Reimbursement for Incarceration costs—lower of \$30 per day or cost determined by auditor—charged, if the county adopts the appropriate ordinance, to defendants for misdemeanor and felony sentences who serve more than seventy-two hours in lawful detention (I.C. § 36-2-13-15).

ADDITIONAL FEES CHARGED IN CIVIL CASES

Support Fees: This category reflects amounts collected through a \$55 fee charged in cases where a final court order requires a party to pay support or maintenance payments through the clerk of the court. It is intended to defray some of the expenses associated with the collection and disbursement of child support or maintenance. The fee goes to the county general fund, if collected by the county clerk or the state general fund if collected by the state central collection unit.

Guardian *ad Litem*/Court Appointed Special Advocate Fee: The juvenile division of the trial court may order the parent or estate of a child for whom a guardian *ad litem* or a special advocate is appointed to pay up to \$100 for the service. The money is paid to the county probation department and is deposited in either the GAL or CASA fund depending upon the appointment. The county fiscal body uses the money when providing these services.

Civil Action Service Fee: The plaintiff in a civil action pays this fee when other civil costs are paid, except where service was made by publication in accordance with Indiana Trial Rule 4.13. The fee is \$10 per each additional named defendant after the first named defendant in a case, including

those added after the time of filing; as well as \$10 per garnishee defendant over three named garnishee defendants. The court in which the case is filed retains the total revenue from this fee, for deposit in the general fund.

Small Claims Service Fee: The plaintiff in a small claims action pays this fee when other civil costs are paid. Similar to civil actions, the clerk's office charges \$10 per each additional named defendant after the first named defendant in a case, including those added after the time of filing, as well as \$10 per garnishee defendant over three named garnishee defendants. The court in which the small claims case is filed retains the total revenue from this fee, for deposit in the general fund.

Alternative Dispute Resolution Fee: This \$20 fee applies only to counties with an established and approved ADR plan. The fee is collected from the party filing a petition for legal separation, paternity or dissolution of marriage and is reported in the county level funds column, for deposit into the Alternative Dispute Resolution Fund.

OTHER SOURCES OF REVENUE

Document Fee: This category reflects a \$1 to \$3 fee, collected by the clerk for copying, preparing and certifying documents or transcripts. This fee goes to the county auditor or city or town fiscal authority, depending upon the court in which it is collected, reported in the county or local level column and deposited in the user fee fund.

Interest on Investments: This category reflects income generated through investments of various funds' monies. Depending on the court, the interest is deposited into the relevant fund that generated the income.

FUTURE FEES TO BE SEPARATELY REPORTED BEGINNING 2009

- A. Department of Natural Resources Deer Replacement fee- \$500, I.C. § 14-22-38-4;
- B. Late Payment Fee- \$25, I.C. § 33-37-5-22;
- C. Construction Work Zone Fee- \$300, I.C. § 9-21-5-11;
- D. Youth Tobacco fee- I.C. § 7.1-3-18.5-6, and
- E. Intrastate Compact Administration Fee-\$75, new law effective Jan. 1, 2009.
- F. Mortgage Foreclosure Additional Filing Fee-\$50, effective July 1, 2009.

MARION COUNTY SMALL CLAIMS COURT REVENUE REFERENCES

The Marion County Small Claims Courts file separate Reports on Court Revenue. Many of the categories are the same as the small claims case fees collected and reported on the regular Report on Court Revenue. The following report references indicate the differences:

Filing Fee and Township Docket Fee: The basic court cost in the Marion County Small Claims Court is a \$5 township docket fee plus 45% of the costs charged in infraction and ordinance violation cases, which totals \$37.00. The respective townships support these courts and the basic courts costs go to the township general funds, rather than to the state general funds.

Service of Process Fee (Certified Mail): The cost of service of process in these small claims courts is \$13 for service by

registered or certified mail. The service fee is charged in addition to any filing fee.

Service of Process Fee (Personal Service): As with certified mail service, the additional fee for personal service by the constable is \$13. All service of process fees are reported in the "Money to Others" column and are paid directly to the elected constables and their deputies.

Redocketing Fee: This \$5 fee is charged if a small claims case was dismissed or disposed but then redocketed for further action.

The descriptions of the remainder of the fees reported on the Small Claims Report on Court Revenue are the same as above.