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# HOUSE BILL No. 1532

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-40-1.

**Synopsis:** Reimbursement of costs of delinquent offenders. Requires a county to reimburse the department of correction for the costs incurred by the department of correction for a child from the county who is made a ward of the department of correction for a delinquent act other than certain offenses against persons. Permits a juvenile court to order a parent or guardian of the estate of a child to pay or reimburse the county or the department of correction for these costs. Repeals a provision transferring the obligation of paying for incarcerated delinquent offenders from the county to the state.

**Effective:** January 1, 2012.

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January 20, 2011, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## HOUSE BILL No. 1532

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

1 SECTION 1. IC 31-40-1-3.2 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2012]: **Sec. 3.2. (a) This section applies to a child who:**  
4 **(1) is adjudicated to be a delinquent child for:**  
5 **(A) a delinquent act described in IC 31-37-2; or**  
6 **(B) a delinquent act described in IC 31-37-1, other than an**  
7 **act that would be an offense under IC 35-42 (offenses**  
8 **against the person) if committed by an adult; and**  
9 **(2) is made a ward of the department of correction as a result**  
10 **of the adjudication described in subdivision (1).**  
11 **(b) After December 31, 2011, the department of correction is not**  
12 **responsible for the costs of secure detention and other costs of**  
13 **wardship incurred by the department of correction for a child**  
14 **described in subsection (a), including the cost of:**  
15 **(1) housing for the delinquent child; and**  
16 **(2) rehabilitation services, reentry services, and any other**  
17 **services provided by or through the department of correction**



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to the delinquent child.  
(c) The county served by a juvenile court that awards wardship of a child described in subsection (a) to the department of correction shall reimburse the department of correction for the costs described in subsection (b) not later than thirty (30) days after receiving a written claim from the department of correction. The amount payable to the department of correction shall be reduced by any amount directly paid to the department of correction by a parent or guardian of the estate of a delinquent child under section 3.5 of this chapter.

SECTION 2. IC 31-40-1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 3.5. (a) If a juvenile court:

- (1) adjudicates a child to be a delinquent child for a delinquent act to which section 3.2(a)(1) of this chapter applies; and
- (2) awards wardship of the child to the department of correction;

the juvenile court may conduct a hearing to determine whether a child's parents or guardian of the child's estate should pay for, or reimburse the county for, the costs of wardship incurred by the department of correction after December 31, 2011, including the cost of any services provided by or through the department of correction. The hearing may be conducted before or after the department of correction incurs costs for a child.

(b) Each parent and guardian of the estate of a child shall, before a hearing under subsection (a), furnish the juvenile court and the county with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana supreme court for child support orders.

(c) A juvenile court may not order a parent or guardian of the estate of a child to pay or reimburse the county if the juvenile court makes a specific finding that the parent or guardian is unable to pay or that justice would not be served by ordering payment from the parent or guardian.

(d) If, after a hearing, the juvenile court orders a parent or guardian of the estate of a child to pay or reimburse costs, the parent or guardian of the estate of a child is financially responsible for the costs of wardship incurred by the department of correction, including the cost of any services provided by or through the department of correction.

(e) The county may order any parental reimbursement

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1 obligation under this section to be paid directly to the department  
 2 of correction or to the local court clerk so long as the juvenile  
 3 delinquency case is open. The department of correction shall keep  
 4 track of all payments made by each parent or guardian and shall  
 5 provide a receipt for each payment received to the parent or  
 6 guardian and to the county auditor. At the end of the juvenile  
 7 delinquency action, the department of correction shall provide an  
 8 accounting of payments received, and the juvenile court may  
 9 consider additional evidence of payment activity and determine the  
 10 amount of parental reimbursement obligation that remains unpaid.  
 11 The juvenile court shall reduce the unpaid balance to a final  
 12 judgment that may be enforced in any court having jurisdiction  
 13 over such matters.

14 (f) After a judgment for unpaid parental reimbursement  
 15 obligation is rendered, payments made toward satisfaction of the  
 16 judgment shall be made to the clerk of the court in the county  
 17 where the enforcement action is filed and shall be forwarded  
 18 promptly to the department of correction in the same manner as  
 19 any other judgment payment.

20 SECTION 3. IC 31-40-1-6, AS AMENDED BY P.L.182-2009(ss),  
 21 SECTION 389, IS AMENDED TO READ AS FOLLOWS  
 22 [EFFECTIVE JANUARY 1, 2012]: Sec. 6. (a) The department may  
 23 contract with any of the following, on terms and conditions with  
 24 respect to compensation and payment or reimbursement of expenses as  
 25 the department may determine, for the enforcement and collection of  
 26 any parental reimbursement obligation established by order entered by  
 27 the court under section 3, 3.5, or 5(g) of this chapter:

28 (1) The prosecuting attorney of the county in which the juvenile  
 29 court that ordered or approved the services is located or in which  
 30 the obligor resides.

31 (2) An attorney licensed to practice law in Indiana, if the attorney  
 32 is not an employee of the department.

33 (3) A private collection agency licensed under IC 25-11.

34 (b) A contract entered into under this section is subject to approval  
 35 under IC 4-13-2-14.1.

36 (c) Any fee payable to a prosecuting attorney under a contract under  
 37 subsection (a)(1) shall be deposited in the county general fund and  
 38 credited to a separate account identified as the prosecuting attorney's  
 39 child services collections account. The prosecuting attorney may  
 40 expend funds credited to the prosecuting attorney's child services  
 41 collections account, without appropriation, only for the purpose of  
 42 supporting and enhancing the functions of the prosecuting attorney in

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1 enforcement and collection of parental obligations to reimburse the  
2 department.

3 (d) Contracts between a prosecuting attorney, a private attorney, or  
4 a collection agency licensed under IC 25-11 and the department:

5 (1) must:

6 (A) be in writing;

7 (B) include:

8 (i) all fees, charges, and costs, including administrative and  
9 application fees; and

10 (ii) the right of the department to cancel the contract at any  
11 time;

12 (C) require the prosecuting attorney, private attorney, or  
13 collection agency, upon the request of the department, to  
14 provide the:

15 (i) source of each payment received for a parental  
16 reimbursement order;

17 (ii) form of each payment received for a parental  
18 reimbursement order; and

19 (iii) amount and percentage that is deducted as a fee or a  
20 charge from each payment on the parental reimbursement  
21 order; and

22 (D) have a term of not more than four (4) years; and

23 (2) may be negotiable contingency contracts in which a  
24 prosecuting attorney, private attorney, or collection agency may  
25 not collect a fee that exceeds fifteen percent (15%) of the parental  
26 reimbursement collected per case.

27 (e) A prosecuting attorney, private attorney, or collection agency  
28 that contracts with the department under this section may, in addition  
29 to the collection of the parental reimbursement order, assess and collect  
30 from an obligor all fees, charges, costs, and other expenses as provided  
31 under the terms of the contract described in subsection (d).

32 SECTION 4. P.L.146-2008, SECTION 821 IS REPEALED  
33 [EFFECTIVE JANUARY 1, 2012].

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