

# HOUSE BILL No. 1049

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-23-14-16; IC 33-23-16.

**Synopsis:** Problem solving courts. Provides that the cap on the fees for program services provided to a person participating in a court established alcohol and drug services program does not apply to fees for education or treatment and rehabilitation services. Provides that a person may participate in a problem solving court program as a condition of an informal adjustment program in a child in need of services proceeding. Eliminates an individual's agreement to the conditions of participation in the program if the case for which the individual is referred to the problem solving court involves a nonsuspendible sentence as a precondition to the placement of the individual in a problem solving court program. Allows a problem solving court to collect program fees.

**Effective:** July 1, 2012.

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**Koch**

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January 9, 2012, read first time and referred to Committee on Judiciary.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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# HOUSE BILL No. 1049



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 12-23-14-16 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) The court may
- 3 require an eligible individual to pay a fee for a service of a program.
- 4 (b) If a fee is required, the court shall adopt by court rule a schedule
- 5 of fees to be assessed for program services.
- 6 (c) The fee for program services, **excluding reasonable fees for**
- 7 **education or treatment and rehabilitation services**, may not exceed
- 8 four hundred dollars (\$400).
- 9 (d) A fee collected **under this chapter** shall be deposited in the city
- 10 or county user fee fund.
- 11 SECTION 2. IC 33-23-16-13, AS ADDED BY P.L.108-2010,
- 12 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2012]: Sec. 13. An individual is eligible to participate in a
- 14 problem solving court program only if:
- 15 (1) the individual meets all of the eligibility criteria established by
- 16 the board under section 12 of this chapter;
- 17 (2) the judge of the problem solving court approves the admission



1 of the individual to the problem solving court program; and  
 2 (3) the individual is referred to the problem solving court as a  
 3 result of at least one (1) of the following:

4 (A) A condition of a pretrial diversion program authorized by  
 5 statute or authorized by the judge of the problem solving court  
 6 and the prosecuting attorney.

7 (B) The procedure described in section 14 of this chapter.

8 (C) The procedure described in section 15 of this chapter.

9 (D) A condition of probation.

10 (E) A condition of participation in a community corrections  
 11 program under IC 11-12-1.

12 (F) A condition of participation in a forensic diversion  
 13 program under IC 11-12-3.7.

14 (G) A condition of a community transition program under  
 15 IC 11-10-11.5.

16 (H) A condition of parole.

17 (I) An order in a dispositional decree under IC 31-34-20 to  
 18 participate in a family dependency drug court if the individual  
 19 is a parent, guardian, or another household member of a child  
 20 adjudicated a child in need of services.

21 (J) A condition of an informal adjustment program under  
 22 IC 31-37-9.

23 (K) Involvement in:

24 (i) a child support proceeding;

25 (ii) a mental health commitment; or

26 (iii) a civil protection proceeding.

27 **(L) A condition of an informal adjustment program under**  
 28 **IC 31-34-8.**

29 SECTION 3. IC 33-23-16-15, AS AMENDED BY P.L.187-2011,  
 30 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2012]: Sec. 15. (a) A problem solving court may place an  
 32 individual in a problem solving court program under this section ~~only~~  
 33 if

34 ~~(1)~~ the individual is convicted of an offense that is  
 35 nonsuspendible and the individual meets the conditions for  
 36 eligibility set forth in section 13(1) and 13(2) of this chapter. ~~and~~  
 37 ~~(2) the individual agrees to the conditions of participation in the~~  
 38 ~~problem solving court program:~~

39 (b) If the requirements of subsection (a) are met, ~~in the case of an~~  
 40 ~~individual~~, the court may:

41 (1) order the execution of the individual's nonsuspendible  
 42 sentence and stay execution of all or part of the nonsuspendible

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1 part of the individual's sentence pending the individual's  
 2 successful completion of a problem solving court program; and  
 3 (2) suspend all or part of the suspendible part of the individual's  
 4 nonsuspendible sentence, place the individual on probation for  
 5 the suspended part of the sentence, and require as a condition of  
 6 probation that the person successfully complete a problem solving  
 7 court program.

8 (c) If an individual has been terminated from a problem solving  
 9 court program under this section as provided in section 14.5 of this  
 10 chapter, the **problem solving** court may:

11 (1) if the person is serving the nonsuspendible part of the person's  
 12 sentence:

13 (A) lift the stay of execution of the nonsuspendible part of the  
 14 individual's sentence and order the individual to serve all or a  
 15 part of the nonsuspendible sentence; or

16 (B) otherwise dispose of the case; or

17 (2) if the individual is serving the suspendible part of the  
 18 individual's sentence:

19 (A) order all or a part of the individual's suspendible sentence  
 20 to be executed; or

21 (B) otherwise dispose of the case.

22 (d) If an individual successfully completes a problem solving court  
 23 program under this section, the **problem solving** court may:

24 (1) waive execution of the nonsuspendible part of the individual's  
 25 sentence; or

26 (2) otherwise dispose of the case.

27 SECTION 4. IC 33-23-16-23, AS ADDED BY P.L.108-2010,  
 28 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2012]: Sec. 23. (a) The board shall adopt rules establishing a  
 30 range of fees that may be assessed to an eligible individual to receive  
 31 problem solving court services under this chapter.

32 (b) A court that has established a problem solving court under this  
 33 chapter may require eligible individuals to pay a fee for problem  
 34 solving court services.

35 (c) If a fee is required under subsection (b), the court shall adopt by  
 36 local court rule a schedule of fees, consistent with the rules adopted by  
 37 the board under subsection (a), to be assessed for problem solving court  
 38 services.

39 (d) The **problem solving court or the** clerk of the court shall  
 40 collect fees under this section. **If the problem solving court collects**  
 41 **fees under this section, the problem solving court shall transfer all**  
 42 **collected fees to the clerk of the court not later than fourteen (14)**

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1 **days after the fees are collected.** The clerk of the court shall transmit  
 2 **transfer** the fees within thirty (30) days after the fees are collected, for  
 3 deposit by the auditor or fiscal officer in the appropriate user fee fund  
 4 established under IC 33-37-8.

5 (e) Fees collected under this section must be used only to fund  
 6 problem solving court services under this chapter.

7 SECTION 5. IC 33-23-16-23.5, AS ADDED BY P.L.187-2011,  
 8 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2012]: Sec. 23.5. (a) A parent or guardian of a child:

10 (1) who is:

11 (A) adjudicated a delinquent child; or

12 (B) in a program of informal adjustment approved by a  
 13 juvenile court under IC 31-37-9; and

14 (2) who is accepted into a problem solving court program;

15 is financially responsible for the problem solving court services fee and  
 16 chemical testing expenses assessed against the child by the problem  
 17 solving court under this chapter.

18 (b) A parent or guardian of a child described in subsection (a) shall,  
 19 before a hearing under subsection (c) concerning payment of fees and  
 20 expenses assessed against the child, provide financial information to  
 21 the problem solving court as ordered by the problem solving court.

22 (c) The problem solving court shall hold a hearing and may order  
 23 the parent or guardian to pay fees and expenses assessed against a child  
 24 described in subsection (a) unless the problem solving court makes a  
 25 specific finding that:

26 (1) the parent or guardian is unable to pay the fees or expenses;

27 or

28 (2) justice would not be served by ordering the parent or guardian  
 29 to pay the fees or expenses.

30 (d) If a parent or guardian is ordered to pay fees or expenses under  
 31 this section, the parent or guardian shall pay the fees or expenses to **the**  
 32 **problem solving court or** the clerk of the court. The problem solving  
 33 court shall keep a record of all payments made under this section by  
 34 each parent or guardian. When a child is discharged from a problem  
 35 solving court program, the problem solving court shall determine the  
 36 amount of any unpaid fees or expenses a parent or guardian owes under  
 37 this section. The problem solving court may reduce the unpaid balance  
 38 to a final judgment that may be enforced in any court that has  
 39 appropriate jurisdiction.

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