



Reprinted
January 23, 2013

HOUSE BILL No. 1016

DIGEST OF HB 1016 (Updated January 22, 2013 1:58 pm - DI 106)

Citations Affected: IC 5-2; IC 33-23.

Synopsis: Problem solving courts. Provides additional circumstances under which a person can participate in a problem solving court program. Provides that a problem solving court may provide rehabilitative services. Simplifies the problem solving court fee transfer process. Establishes a pilot project in Lake County permitting the county fiscal body to supplement the cost of a veteran's court with not more than 50% of the funds in the county drug free community fund.

Effective: July 1, 2013.

Koch

January 7, 2013, read first time and referred to Committee on Courts and Criminal Code.
January 17, 2013, amended, reported — Do Pass.
January 22, 2013, read second time, amended, ordered engrossed.

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HB 1016—LS 6136/DI 107+



Reprinted
January 23, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

HOUSE BILL No. 1016

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 5-2-11-5, AS AMENDED BY P.L.26-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 5. (a) As used in this section, "commission"
4 means the commission for a drug free Indiana established by
5 IC 5-2-6-16.

6 (b) Subject to subsections (c) and (d), **and except as provided in**
7 **subsection (f)**, a county fiscal body shall annually appropriate from the
8 fund amounts allocated by the county legislative body for the use of
9 persons, organizations, agencies, and political subdivisions to carry out
10 recommended actions contained in a comprehensive drug free
11 communities plan submitted by the local coordinating council and
12 approved by the commission as follows:

13 (1) For persons, organizations, agencies, and political
14 subdivisions to provide prevention and education services, at least
15 twenty-five percent (25%) of the money in the fund.

16 (2) For persons, organizations, agencies, and political
17 subdivisions to provide intervention and treatment services, at

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1 least twenty-five percent (25%) of the money in the fund.

2 (3) For persons, organizations, agencies, and political
3 subdivisions to provide criminal justice services and activities, at
4 least twenty-five percent (25%) of the money in the fund.

5 (4) A county fiscal body shall allocate the remaining twenty-five
6 percent (25%) of the money in the fund to persons, organizations,
7 agencies, and political subdivisions to provide services and
8 activities under subdivisions (1) through (3) based on the
9 comprehensive drug free communities plan submitted by the local
10 coordinating council and approved by the commission.

11 (c) In the comprehensive drug free communities plan, the local
12 coordinating council shall determine the amount of funds the county
13 fiscal body shall appropriate to implement the objectives approved in
14 the comprehensive drug free communities plan.

15 (d) If the comprehensive drug free communities plan is not
16 approved by the commission, the county fiscal body may not
17 appropriate any funds at the request of the local coordinating council
18 or any other local entity. **However, the county fiscal body may**
19 **appropriate funds in accordance with subsection (f), if applicable.**

20 (e) If funds are allocated by a county legislative body under
21 subsection (b) and the commission has not approved the
22 comprehensive drug free communities plan for the county, the
23 commission may:

24 (1) approve and appoint a new local coordinating council for the
25 county;

26 (2) freeze funds allocated by the county legislative body, **except**
27 **for funds allocated under subsection (f);** or

28 (3) reevaluate the comprehensive drug free communities plan.

29 **(f) This subsection applies to a county having a population of**
30 **more than four hundred thousand (400,000) but less than seven**
31 **hundred thousand (700,000). The fiscal body of a county described**
32 **in this subsection may adopt an ordinance establishing a pilot**
33 **project to supplement the funding of a veteran's court with money**
34 **in the fund. The ordinance shall establish the amount of money to**
35 **be used to supplement the veteran's court; however, not more than**
36 **fifty percent (50%) of the money in the fund may be used to**
37 **supplement the veteran's court. Notwithstanding subsections (c)**
38 **through (e), the county fiscal body shall annually appropriate from**
39 **the fund the amount allocated by the ordinance to supplement the**
40 **costs of a veteran's court. Money in the fund not allocated to**
41 **supplement the costs of a veteran's court shall be allocated on a pro**
42 **rata basis in accordance with subsection (b). A pilot project**



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1 established in accordance with this subsection expires June 30,
2 2018.

3 SECTION 2. IC 33-23-16-9.1 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2013]: Sec. 9.1. As used in this chapter,
6 "rehabilitative service" means a class, program, or service
7 provided:

8 (1) to an individual participating in a problem solving court
9 program; and

10 (2) by:

11 (A) the problem solving court; or

12 (B) another entity to which the individual has been
13 referred by the problem solving court;

14 to address the rehabilitative needs of the individual, including
15 classes, programs, or services concerning education, criminal
16 thinking and behavior, employment, and parenting and family
17 support.

18 SECTION 3. IC 33-23-16-13, AS AMENDED BY P.L.136-2012,
19 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2013]: Sec. 13. An individual is eligible to participate in a
21 problem solving court program only if:

22 (1) the individual meets all of the eligibility criteria established by
23 the board under section 12 of this chapter;

24 (2) the judge of the problem solving court approves the admission
25 of the individual to the problem solving court program; and

26 (3) the individual is referred to the problem solving court as a
27 result of at least one (1) of the following:

28 (A) A condition of a pretrial diversion program authorized by
29 statute or authorized by the judge of the problem solving court
30 and the prosecuting attorney.

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

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

33 (D) A condition of probation.

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

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

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

40 (H) A condition of parole.

41 (I) An order in a dispositional decree under IC 31-34-20 to
42 participate in a family dependency drug court if the individual

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- 1 is a parent, guardian, or another household member of a child
 2 adjudicated a child in need of services.
 3 (J) A condition of an informal adjustment program under
 4 IC 31-37-9.
 5 (K) Involvement in:
 6 (i) a child support proceeding;
 7 (ii) a mental health commitment; or
 8 (iii) a civil protection proceeding.
 9 (L) A condition of an informal adjustment program under
 10 IC 31-34-8.
 11 **(M) A condition of a misdemeanor sentence.**
 12 **(N) A condition of a program authorized by the:**
 13 **(i) judge of a problem solving court; and**
 14 **(ii) department of correction or the county sheriff.**

15 SECTION 4. IC 33-23-16-20, AS ADDED BY P.L.108-2010,
 16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2013]: Sec. 20. (a) A problem solving court may provide the
 18 following services to individuals participating in problem solving court
 19 programs:

- 20 (1) Screening for eligibility and other appropriate services.
 21 (2) Assessment.
 22 (3) Education.
 23 (4) Referral.
 24 (5) Service coordination and case management.
 25 (6) Supervision.
 26 (7) Judicial involvement.
 27 (8) Program evaluation.
 28 **(9) Rehabilitative services.**

29 (b) A problem solving court may not provide direct treatment ~~or~~
 30 ~~rehabilitation~~ services unless:

- 31 (1) the problem solving court is certified by the division of mental
 32 health and addiction under IC 12-23-1-6;
 33 (2) the problem solving court uses licensed medical professionals
 34 who provide mental health treatment to individuals with
 35 psychiatric disorders; and
 36 (3) the court that establishes the problem solving court determines
 37 that existing community resources are inadequate to respond
 38 satisfactorily to the demand for services from the court.

39 SECTION 5. IC 33-23-16-22, AS ADDED BY P.L.108-2010,
 40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2013]: Sec. 22. (a) The costs of a problem solving court may,
 42 at the discretion of the fiscal body of the unit, be supplemented out of

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1 the city general fund or the county general fund and may be further
2 supplemented by payment from the user fee fund upon appropriation
3 made under IC 33-37-8.

4 (b) A problem solving court may apply for and receive the
5 following:

- 6 (1) Gifts, bequests, and donations from private sources.
- 7 (2) Grants and contract money from governmental sources.
- 8 (3) Other forms of financial assistance approved by the court to
9 supplement the problem solving court's budget.

10 **(c) The costs of a veteran's court may, at the discretion of the**
11 **fiscal body of the unit, be supplemented out of the county drug free**
12 **community fund in a county that has established a pilot project**
13 **under IC 5-2-11-5(f). This subsection expires June 30, 2018.**

14 SECTION 6. IC 33-23-16-23, AS AMENDED BY P.L.136-2012,
15 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2013]: Sec. 23. (a) The board shall adopt rules establishing a
17 range of fees that may be assessed to an eligible individual to receive
18 problem solving court services under this chapter.

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

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

26 (d) The problem solving court or the clerk of the court shall collect
27 fees under this section. ~~If the problem solving court collects fees under~~
28 ~~this section, the problem solving court shall transfer all collected fees~~
29 ~~to the clerk of the court not later than fourteen (14) days after the fees~~
30 ~~are collected. The clerk of the court shall transfer the fees **must be**~~
31 ~~**transferred** within thirty (30) days after the fees are collected, for~~
32 ~~deposit by the auditor or fiscal officer in the appropriate user fee fund~~
33 ~~established under IC 33-37-8.~~

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

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1016, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-23-16-9.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2013]: **Sec. 9.1. As used in this chapter, "rehabilitative service" means a class, program, or service provided:**

(1) to an individual participating in a problem solving court program; and

(2) by:

(A) the problem solving court; or

(B) another entity to which the individual has been referred by the problem solving court;

to address the rehabilitative needs of the individual, including classes, programs, or services concerning education, criminal thinking and behavior, employment, and parenting and family support."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1016 as introduced.)

MCMILLIN, Chair

Committee Vote: yeas 13, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1016 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-11-5, AS AMENDED BY P.L.26-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) As used in this section, "commission" means the commission for a drug free Indiana established by

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IC 5-2-6-16.

(b) Subject to subsections (c) and (d), **and except as provided in subsection (f)**, a county fiscal body shall annually appropriate from the fund amounts allocated by the county legislative body for the use of persons, organizations, agencies, and political subdivisions to carry out recommended actions contained in a comprehensive drug free communities plan submitted by the local coordinating council and approved by the commission as follows:

- (1) For persons, organizations, agencies, and political subdivisions to provide prevention and education services, at least twenty-five percent (25%) of the money in the fund.
- (2) For persons, organizations, agencies, and political subdivisions to provide intervention and treatment services, at least twenty-five percent (25%) of the money in the fund.
- (3) For persons, organizations, agencies, and political subdivisions to provide criminal justice services and activities, at least twenty-five percent (25%) of the money in the fund.
- (4) A county fiscal body shall allocate the remaining twenty-five percent (25%) of the money in the fund to persons, organizations, agencies, and political subdivisions to provide services and activities under subdivisions (1) through (3) based on the comprehensive drug free communities plan submitted by the local coordinating council and approved by the commission.

(c) In the comprehensive drug free communities plan, the local coordinating council shall determine the amount of funds the county fiscal body shall appropriate to implement the objectives approved in the comprehensive drug free communities plan.

(d) If the comprehensive drug free communities plan is not approved by the commission, the county fiscal body may not appropriate any funds at the request of the local coordinating council or any other local entity. **However, the county fiscal body may appropriate funds in accordance with subsection (f), if applicable.**

(e) If funds are allocated by a county legislative body under subsection (b) and the commission has not approved the comprehensive drug free communities plan for the county, the commission may:

- (1) approve and appoint a new local coordinating council for the county;
- (2) freeze funds allocated by the county legislative body, **except for funds allocated under subsection (f);** or
- (3) reevaluate the comprehensive drug free communities plan.

(f) This subsection applies to a county having a population of

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more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The fiscal body of a county described in this subsection may adopt an ordinance establishing a pilot project to supplement the funding of a veteran's court with money in the fund. The ordinance shall establish the amount of money to be used to supplement the veteran's court; however, not more than fifty percent (50%) of the money in the fund may be used to supplement the veteran's court. Notwithstanding subsections (c) through (e), the county fiscal body shall annually appropriate from the fund the amount allocated by the ordinance to supplement the costs of a veteran's court. Money in the fund not allocated to supplement the costs of a veteran's court shall be allocated on a pro rata basis in accordance with subsection (b). A pilot project established in accordance with this subsection expires June 30, 2018. "

Page 3, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 3. IC 33-23-16-22, AS ADDED BY P.L.108-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 22. (a) The costs of a problem solving court may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under IC 33-37-8.

(b) A problem solving court may apply for and receive the following:

- (1) Gifts, bequests, and donations from private sources.
- (2) Grants and contract money from governmental sources.
- (3) Other forms of financial assistance approved by the court to supplement the problem solving court's budget.

(c) The costs of a veteran's court may, at the discretion of the fiscal body of the unit, be supplemented out of the county drug free community fund in a county that has established a pilot project under IC 5-2-11-5(f). This subsection expires June 30, 2018."

Renumber all SECTIONS consecutively.

(Reference is to HB 1016 as printed January 18, 2013.)

CANDELARIA REARDON

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