

IC 11-10-2

Chapter 2. Commitment, Evaluation, and Assignment of Delinquent Offenders

IC 11-10-2-0.3

Property tax levies to reimbursement of department for keeping delinquent offenders; transfer of costs to state; transitional matters

Sec. 0.3. (a) A county may not impose a property tax levy after December 31, 2008, for the county general fund to the extent that the levy is for the reimbursement of the department of correction under IC 11-10-2-3 (before its repeal by P.L.146-2008) or a related provision for the costs of keeping delinquent offenders.

(b) The obligation to pay the costs of keeping delinquent offenders (as defined in IC 11-8-1-9), to the extent that the costs are for services delivered after December 31, 2008, is transferred from the counties to the state. The obligation transferred includes the costs of using after December 31, 2008, an institution or a facility in Indiana for providing educational services that, before January 1, 2009, were chargeable to a county family and children's fund, a county office, or a county under IC 20-26-11-12, IC 20-26-11-13, or IC 20-33-2-29.

(c) The following definitions apply throughout this subsection:

(1) "Account" means an obligation of a county under IC 11-10-2-3 (before its repeal by P.L.146-2008) or another law to reimburse the state, including the department of correction, for the cost of keeping a delinquent offender before January 1, 2009.

(2) "Delinquent account" means an account that has not been paid to the state before six (6) months after the account is forwarded under this section or IC 4-24-7-4 (before its amendment by P.L.146-2008).

All accounts accruing before January 1, 2009, and not previously forwarded to a county auditor, and any reconciliations for any period before January 1, 2009, shall be forwarded to the county auditor before March 16, 2009. Upon receipt of an account, the county auditor shall draw a warrant on the treasurer of the county for the payment of the account, which shall be paid from the funds of the county that were appropriated for the payment. The county council of each county shall appropriate sufficient funds to pay these accounts.

(d) A county and the department of correction may enter into agreements to resolve any issues arising under P.L.146-2008 concerning payments to vendors, payments to the county, payments to the state (including payments due for commitments before January 1, 2009), collection of amounts due to a county or the state from a parent, guardian, or custodian, and other matters affected by P.L.146-2008. Notwithstanding P.L.146-2008, the agreement, if approved by the governor and the county fiscal body, governs the responsibilities of the state and the county.

(e) This section applies notwithstanding any other law.

As added by P.L.220-2011, SEC.246.

IC 11-10-2-1

Application of chapter

Sec. 1. This chapter applies only to delinquent offenders.

As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-2-2

Commitment or award of guardianship; governing facts

Sec. 2. Except as provided by section 6 of this chapter, the commitment or award of guardianship of a delinquent offender to the department is governed by the following:

- (1) All commitments are to the department as opposed to a specific facility. The department shall determine the facility or program assignment. The initial conveyance of an offender must be to a place designated by the department.
- (2) No offender under twelve (12) years of age or eighteen (18) years of age or older may be committed to the department.
- (3) No offender known to be pregnant may be committed to the department.

As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-2-3

Repealed

(Repealed by P.L.146-2008, SEC.808.)

IC 11-10-2-4

Evaluation; information to consider; utilization of reports, or other information; previous evaluations and information

Sec. 4. (a) A committed offender shall, within a reasonable time, be evaluated regarding:

- (1) his medical, psychological, educational, vocational, economic and social condition, and history;
- (2) the circumstances surrounding his present commitment;
- (3) his history of delinquency; and
- (4) any additional relevant matters.

(b) In making the evaluation prescribed in subsection (a), the department may utilize reports of any precommitment physical or mental examination or other information or records forwarded by the committing court or other agency, if that information meets the department's minimum standards for delinquent offender evaluation.

(c) If a committed offender has undergone, within one (1) year before the date of his commitment, a previous departmental evaluation under this section, the department may rely on the previous evaluation and the information used at that time. However, this subsection does not deprive an offender of the right to a medical and dental examination under IC 11-10-3.

As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-2-5

Assignment to facility or program

Sec. 5. (a) Upon completion of the evaluation prescribed in section 4 of this chapter, the department shall assign the offender to a facility or program; make an initial education, training, employment, or other assignment within that facility or program; and order medical, psychiatric, psychological, or other services it considers appropriate. In making the assignment, the department shall, among other relevant information, consider:

- (1) the results of the evaluation prescribed in section 4 of this chapter;
- (2) the recommendations of the committing court;
- (3) the offender's need for special therapy or programs, including education, training, or employment available only in specific facilities or programs;
- (4) the degree and type of custodial control necessary for the protection of the public, staff, other committed offenders, and the individual being considered;
- (5) the likelihood of the offender's reintegration into the community in which the facility or program is located;
- (6) the desirability of keeping the offender in a facility or program near the area in which he resided before commitment;
- (7) the desires of the offender and his parents, guardian, or custodian;
- (8) the current population levels of the facilities or programs considered appropriate for the offender; and
- (9) the probable length of commitment.

(b) If the department determines that a committed offender is mentally or physically incapacitated to such an extent that proper custody, care, and control cannot be provided by the department, it shall make arrangements for placement outside the department.

(c) If an offender is found to be pregnant, the department may return her to the committing court for further disposition.

(d) Before assigning an offender to a facility or program, the department shall give him an opportunity to present pertinent information, discuss with him all aspects of the evaluation and assignment process, and work with him to determine a fair and appropriate assignment.

(e) The department shall, by certified mail, return receipt requested, notify the parent, guardian, custodian, or nearest relative of any committed offender of his physical location and any change in that location.

(f) This section does not preclude the temporary assignment of an offender pending evaluation.

As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-2-6

Court order for evaluation and determination of proposed assignment

Sec. 6. A juvenile court may order a juvenile offender who is before the court for disposition and is subject to commitment to the

department to be temporarily committed to the department, for not more than fourteen (14) days (excluding Saturdays, Sundays, and legal holidays) for evaluation and determination of proposed assignment under sections 4 and 5 of this chapter. The department shall forward to the court its written findings and recommendations.
As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-2-7

Evaluation of offender by local governmental unit or other public or private agency

Sec. 7. This chapter does not preclude a local governmental unit or other public or private agency from evaluating an offender, before commitment to the department, as prescribed by sections 4 and 5 of this chapter, if that service is approved by the commissioner as a substitute for departmental services.

As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-2-8

Semiannual review of current assignment of committed offender; decision

Sec. 8. The department shall, at least semiannually, review in accord with sections 4 and 5 of this chapter every committed offender who is not on parole to determine the appropriateness of his current assignment and to make an assignment decision based upon that review. Before making an assignment decision, the department shall interview the offender, discuss with him the information on which the decision will be based, and allow him to challenge that information and present pertinent information of his own. The department shall promptly notify the offender, in writing, of its assignment decision and the reasons for it.

As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-2-9

Involuntary segregation of offender; review; disciplinary segregation

Sec. 9. (a) An offender may be involuntarily segregated from the general population of a facility or program if the department first finds that segregation is necessary for the offender's own physical safety or the physical safety of others.

(b) The department shall review an offender so segregated at least once every thirty (30) days to determine whether the reason for segregation still exists.

(c) This section does not apply to disciplinary segregation under IC 11-11-5.

As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-2-10

Transfer to adult facility or program; requirements; custody

Sec. 10. (a) The commissioner may transfer a committed delinquent offender to an adult facility or program according to the

following requirements:

(1) The offender must be seventeen (17) years of age or older at the time of transfer.

(2) The department must determine that:

(A) either the offender is incorrigible to the degree that his presence at a facility or program for delinquent offenders is seriously detrimental to the welfare of other offenders, or the transfer is necessary for the offender's own physical safety or the physical safety of others; and

(B) there is no other action reasonably available to alleviate the problem.

(3) No offender may be transferred to the Indiana state prison or the Pendleton Correctional Facility.

(b) The offender is under the full custody of the adult facility or program to which he is transferred until he is returned to a facility or program for delinquent offenders, except that his parole or discharge from the department shall be determined under IC 11-13-6.

As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.12-1996, SEC.9.

IC 11-10-2-11

Division of youth services transitional fund

Sec. 11. (a) The division of youth services transitional services fund is established for the purposes described in subsection (e). The department shall administer the fund.

(b) The fund consists of money collected under IC 31-40-1-3.5.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the fund is for the purposes of:

(1) augmenting and supplementing the funds appropriated to the department of correction to provide juvenile transitional services to delinquent offenders; and

(2) paying collection costs incurred under IC 31-40-1-3.5.

As added by P.L.204-2011, SEC.1.