

IC 33-37-3

Chapter 3. General Court Costs Provisions for Civil Actions

IC 33-37-3-1

Collection of fees in civil or paternity actions brought by or on behalf of state or political subdivisions

Sec. 1. (a) The fees prescribed in civil actions or paternity actions may not be collected from the state or a political subdivision in an action brought by or on behalf of the state or the political subdivision.

(b) This section does not prevent collecting fees from a defendant when the state or political subdivision is successful in its action.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-2

Indigent persons; relief from or waiver of fees and court costs in civil actions or appointment of guardian

Sec. 2. (a) Except as provided in subsection (b), a person entitled to bring a civil action or to petition for the appointment of a guardian under IC 29-3-5 may do so without paying the required fees or other court costs if the person files a statement in court, under oath and in writing:

- (1) declaring that the person is unable to make the payments or to give security for the payments because of the person's indigency;
- (2) declaring that the person believes that the person is entitled to the redress sought in the action; and
- (3) setting forth briefly the nature of the action.

(b) If a person brings a civil action or petition for the appointment of a guardian under IC 29-3-5, a clerk shall waive the payment of required fees or other court costs by the person without court approval if:

- (1) the person is represented by an attorney:
 - (A) who is employed by Indiana Legal Services or another civil legal aid program; or
 - (B) who:
 - (i) is serving as a pro bono attorney; and
 - (ii) obtained the person as a client through a direct referral from a pro bono district associated with one (1) of the fourteen (14) administrative districts in Indiana established by the Indiana Rules of Court Administrative Rule 3(A); and
- (2) the attorney files a statement with the clerk that:
 - (A) seeks relief from paying the required fees or other court costs;
 - (B) declares that the person believes that the person is entitled to the redress sought in the action;
 - (C) sets forth briefly the nature of the action;
 - (D) is accompanied by an approved affidavit of indigency; and

(E) is signed by the attorney.

(c) This section does not prohibit a court from reviewing and modifying a finding of indigency by the court or a clerk if a person who received relief from the payment of required fees or other court costs ceases to qualify for the relief.

As added by P.L.98-2004, SEC.16. Amended by P.L.89-2009, SEC.1.

IC 33-37-3-3

Actions commenced by person confined by department of correction

Sec. 3. (a) When an offender confined by the department of correction commences an action or a proceeding without paying fees or other court costs under section 2 of this chapter, the offender shall obtain from the appropriate official of the correctional facility or facilities at which the offender is or was confined a certified copy of the prisoner's trust fund account statement for the six (6) months immediately preceding submission of the complaint or petition. The offender shall file the trust fund account statement in addition to the statement required under section 2 of this chapter.

(b) The offender shall pay a partial filing fee that is twenty percent (20%) of the greater of:

(1) the average monthly deposits to the offender's account; or

(2) the average monthly balance in the offender's account;

for the six (6) months immediately preceding the filing of the complaint or petition. However, the fee may not exceed the full statutory fee for the commencement of actions or proceedings.

(c) If the offender claims exceptional circumstances that render the offender unable to pay the partial filing fee required by this section, in addition to the statement required by section 2 of this chapter and the statement of account required by subsection (a), the offender shall submit an affidavit of special circumstances setting forth the reasons and circumstances that justify relief from the partial filing fee requirement.

(d) If the court approves the application to waive all fees, the court shall give written notice to the offender that all fees and costs relating to the filing and service will be waived. If the court denies the application to waive all fees, the court shall give written notice to the offender that the offender's case will be dismissed if the partial filing fee is not paid not later than forty-five (45) days after the date of the order, or within an additional period that the court may, upon request, allow. Process concerning the offender's case may not be served until the fee is paid.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-4

Recovery of costs

Sec. 4. A party for whom judgment is entered in a civil action is entitled to recover costs.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-5**Prepayment of fees; appeals to circuit courts**

Sec. 5. The prepayment of fees under this chapter is not required in an appeal of a civil matter to a circuit court from a court of inferior jurisdiction.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-6**Inclusion of service of process by mail in court costs fee**

Sec. 6. Court costs fees under this chapter include service of process by certified mail, unless service by the sheriff is requested by the person who institutes the action.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-7**Private service of process; reimbursement of cost**

Sec. 7. If personal service of process is carried out by a process server other than the sheriff, the party who paid for the private service is entitled to reimbursement of the cost of the private service as a part of any judgment that party may recover.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-8**Name change actions; separate fee**

Sec. 8. Notwithstanding IC 33-37-4-4, the clerk may not collect a separate civil fee for a name change action initiated under IC 31-15-2-18.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-9**Prepayment of fees; exceptions**

Sec. 9. Prepayment of fees is not required in proceedings for either of the following:

- (1) Adoption.
- (2) The appointment of a guardian.

As added by P.L.98-2004, SEC.16.