

IC 33-37-4

Chapter 4. Collection of Court Cost Fees

IC 33-37-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 4 and 6 of this chapter by P.L.174-2006 apply only to cases filed after June 30, 2006.

As added by P.L.220-2011, SEC.537.

IC 33-37-4-1

Criminal costs fees; additional fees

Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- (15) A public defense administration fee (IC 33-37-5-21.2).
- (16) A judicial insurance adjustment fee (IC 33-37-5-25).
- (17) A judicial salaries fee (IC 33-37-5-26).
- (18) A court administration fee (IC 33-37-5-27).
- (19) A DNA sample processing fee (IC 33-37-5-26.2).

(c) Instead of the criminal costs fee prescribed by this section, except for the automated record keeping fee (IC 33-37-5-21), the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that

the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
- (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
- (4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
- (5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.16; P.L.95-2004, SEC.4; P.L.2-2005, SEC.100; P.L.176-2005, SEC.4; P.L.182-2009(ss), SEC.392.

IC 33-37-4-2

Infraction or ordinance violation costs fee; additional fees

Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

- (3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (5) A highway work zone fee (IC 33-37-5-14).
- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).
- (11) A public defense administration fee (IC 33-37-5-21.2).
- (12) A judicial insurance adjustment fee (IC 33-37-5-25).
- (13) A judicial salaries fee (IC 33-37-5-26).
- (14) A court administration fee (IC 33-37-5-27).
- (15) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

- (1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (3) The deferral program fee (subsection (e)).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

- (1) The defendant was charged with an ordinance violation subject to IC 33-36.
- (2) The defendant denied the violation under IC 33-36-3.
- (3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), except for the automated record keeping fee (IC 33-37-5-21), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-5 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.17; P.L.95-2004, SEC.5; P.L.2-2005, SEC.101; P.L.176-2005, SEC.5; P.L.182-2009(ss), SEC.393.

IC 33-37-4-3

Juvenile costs fee; additional fees

Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

- (1) IC 31-34 (children in need of services).
- (2) IC 31-37 (delinquent children).
- (3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (6) A document storage fee (IC 33-37-5-20).
- (7) An automated record keeping fee (IC 33-37-5-21).
- (8) A late payment fee (IC 33-37-5-22).
- (9) A public defense administration fee (IC 33-37-5-21.2).
- (10) A judicial insurance adjustment fee (IC 33-37-5-25).
- (11) A judicial salaries fee (IC 33-37-5-26).
- (12) A court administration fee (IC 33-37-5-27).
- (13) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

- (1) The marijuana eradication program fee (IC 33-37-5-7).
- (2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.18; P.L.95-2004, SEC.6; P.L.2-2005, SEC.102; P.L.176-2005, SEC.6.

IC 33-37-4-4

Civil costs fee; additional fees

Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).

- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).
- (5) A public defense administration fee (IC 33-37-5-21.2).
- (6) A judicial insurance adjustment fee (IC 33-37-5-25).
- (7) A judicial salaries fee (IC 33-37-5-26).
- (8) A court administration fee (IC 33-37-5-27).
- (9) A service fee (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).
- (10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).
- (11) For a mortgage foreclosure action filed after June 30, 2009, and before January 1, 2013, a mortgage foreclosure counseling and education fee (IC 33-37-5-30 (before its expiration on January 1, 2013)).

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.19; P.L.95-2004, SEC.7; P.L.2-2005, SEC.103; P.L.176-2005, SEC.7; P.L.174-2006, SEC.15; P.L.105-2009, SEC.22.

IC 33-37-4-5

Repealed

(Repealed by P.L.1-2007, SEC.248.)

IC 33-37-4-6

Small claims costs fee, small claims service fee, and additional fees

Sec. 6. (a) For each small claims action, the clerk shall collect the following fees:

- (1) From the party filing the action:
 - (A) a small claims costs fee of thirty-five dollars (\$35);
 - (B) a small claims service fee of ten dollars (\$10) for each named defendant that is not a garnishee defendant; and
 - (C) if the party has named more than three (3) garnishees or garnishee defendants, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant in excess of three (3).
- (2) From any party adding a defendant that is not a garnishee defendant, a small claims service fee of ten dollars (\$10) for each defendant that is not a garnishee defendant added in the action.
- (3) From any party adding a garnishee or garnishee defendant, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant added to the action.

However, a clerk may not collect a small claims garnishee service fee for the first three (3) garnishees named in the action. However, a clerk may not collect a small claims costs fee, small claims service fee, or small claims garnishee service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee, small claims service fee, and small claims garnishee service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) A public defense administration fee (IC 33-37-5-21.2).
- (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- (6) A judicial salaries fee (IC 33-37-5-26).
- (7) A court administration fee (IC 33-37-5-27).

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.21; P.L.95-2004, SEC.9; P.L.2-2005, SEC.105; P.L.176-2005, SEC.8; P.L.174-2006, SEC.11.

IC 33-37-4-7

Probate costs fee; additional fees

Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

- (1) IC 6-4.1-5 (determination of inheritance tax).
- (2) IC 29 (probate).
- (3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) A public defense administration fee (IC 33-37-5-21.2).
- (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- (6) A judicial salaries fee (IC 33-37-5-26).
- (7) A court administration fee (IC 33-37-5-27).

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004,

SEC.22; P.L.95-2004, SEC.10; P.L.2-2005, SEC.106; P.L.176-2005, SEC.9.

IC 33-37-4-8

Actions listed in IC 33-37-4-4, IC 33-37-4-6, and IC 33-37-4-7; change of venue

Sec. 8. (a) This section applies in all actions listed in sections 4, 6, and 7 of this chapter.

(b) In an action in which there has been or will be a change of venue or transfer from one (1) county to another, the clerk of the court from which the action is transferred shall collect from the party seeking change of venue a fee equal to that required by sections 4, 6, and 7 of this chapter. The clerk of the transferring court shall forward the fee collected under this section to the clerk of the court to which the action is transferred.

As added by P.L.98-2004, SEC.16. Amended by P.L.1-2007, SEC.221.

IC 33-37-4-9

Proration of court costs not required on receipt

Sec. 9. The clerk is not required to show on each receipt for court costs collected the proration of court costs:

(1) remitted to the auditor of state, the county auditor, and the municipality as specified in IC 33-37-7; or

(2) collected for any funds specified in IC 33-37-5.

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

IC 33-37-4-10

Fee bills; issuance; collection; lien

Sec. 10. (a) Not later than seventy-five (75) days after judgment is entered in an action, the clerk shall issue an itemized fee bill for the collection of fees that were charged against the party in that action and that remain unpaid. The clerk shall present the fee bill for collection to the sheriff of a county in which the debtor party resides or in which the debtor party has property.

(b) The sheriff shall do the following:

(1) Collect the amount due under the fee bill.

(2) Return the fee bill to the clerk not more than sixty (60) days after the day the fee bill was issued.

(c) After presented to the sheriff, a fee bill has the effect of an execution and operates as a lien upon the real and personal property of the debtor.

(d) A successor of an officer may issue fee bills for the fees of the officer's predecessors in office in the manner provided under this chapter. A clerk may issue the fee bills of the sheriff or the former sheriffs of the county in the same manner.

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