

IC 4-21.5-6

Chapter 6. Civil Enforcement

IC 4-21.5-6-1

Court order for enforcement

Sec. 1. In addition to any other remedy provided by law:

- (1) an agency in its own name;
- (2) an agency in the name of the state;
- (3) the attorney general in the name of the attorney general; or
- (4) the attorney general in the name of the state at the request of an agency;

may apply for a court order in a circuit or superior court to enforce an order issued under this article by a verified petition for civil enforcement.

As added by P.L.18-1986, SEC.1.

IC 4-21.5-6-2

Enforcement of subpoenas, discovery orders, and protective orders

Sec. 2. (a) This section applies only to the enforcement of a subpoena, discovery order, or protective order issued by an agency under this article.

(b) Any party to a proceeding before an agency who has obtained an order from an administrative law judge may apply for a court order in a circuit or superior court to enforce the subpoena or order issued by an agency by a verified petition for civil enforcement.

Notice of an application under this section shall be given:

- (1) to the administrative law judge issuing the order;
- (2) to the attorney general; and
- (3) to each party to the proceeding before the agency;

by personal service or by the United States mail at the time the application is filed.

As added by P.L.18-1986, SEC.1. Amended by P.L.35-1987, SEC.24.

IC 4-21.5-6-3

Civil actions

Sec. 3. (a) This section does not apply to the enforcement of a subpoena, discovery order, or protective order issued by an agency under this article.

(b) Nothing in this chapter limits or precludes civil action under IC 13-30-1.

(c) Any party to a proceeding concerning an agency's order may file a petition for civil enforcement of that order.

(d) The action may not be commenced under this section if:

- (1) less than sixty (60) days has elapsed since the petitioner gave notice of the alleged violation and of the petitioner's intent to seek civil enforcement to the head of the agency concerned, to the attorney general, and to each alleged violator against whom the petitioner seeks civil enforcement;
- (2) the agency has filed and is diligently prosecuting a petition for civil enforcement of the same order against the same

defendant; or

(3) a petition for review of the same order has been filed and is pending in court.

(e) The petition under this section must name as defendants each alleged violator against whom the petitioner seeks civil enforcement.

(f) The agency whose order is sought to be enforced is not a party to an action under this section unless the agency moves to intervene. The court shall grant an agency's motion to intervene and shall allow the agency to intervene as a plaintiff or defendant.

(g) The agency whose order is sought to be enforced under this section may move to dismiss on the grounds that the petition fails to qualify under this section or that enforcement would be contrary to the policy of the agency. The court shall grant the motion to dismiss unless the petitioner demonstrates that:

(1) the petition qualifies under this section; and

(2) the agency's failure to enforce its order is based on an exercise of discretion that is improper on one (1) or more of the grounds provided in IC 4-21.5-5-14.

(h) Except to the extent expressly authorized by law, a petition for civil enforcement filed under this section may not request, and the court may not grant, any monetary payment apart from taxable costs. *As added by P.L.18-1986, SEC.1. Amended by P.L.35-1987, SEC.25; P.L.1-1996, SEC.26.*

IC 4-21.5-6-4

Naming violators required

Sec. 4. A petition for civil enforcement must name as defendants each alleged violator against whom the party seeks to obtain civil enforcement.

As added by P.L.18-1986, SEC.1.

IC 4-21.5-6-5

Venue

Sec. 5. Venue is determined in accordance with the rules governing civil actions in the courts.

As added by P.L.18-1986, SEC.1.

IC 4-21.5-6-6

Relief granted

Sec. 6. Upon a showing that a person has violated an order issued under this article, the court may grant:

(1) an injunction requested by any petitioner without bond;

(2) a restraining order or any appropriate relief other than an injunction requested by a petitioner under section 1 of this chapter without bond;

(3) a subpoena, discovery order, or protective order requested under section 2 of this chapter without a bond; or

(4) a restraining order or any appropriate relief other than an injunction requested by a petitioner under section 3 of this chapter with the bond specified by the court.

As added by P.L.18-1986, SEC.1.

IC 4-21.5-6-7

Appeal

Sec. 7. Decisions on petitions for civil enforcement are appealable in accordance with the rules governing civil appeals from the courts.

As added by P.L.18-1986, SEC.1.