

CHAPTER X
SPECIAL PROGRAMS
ALCOHOL AND DRUG REHABILITATION PROGRAM

ESTABLISHMENT OF ALCOHOL AND DRUG INTERVENTION,
TREATMENT AND REHABILITATION PROGRAM

A court having misdemeanor jurisdiction in a city or county may establish an alcohol and drug services program. [IC 12-23-14-1]

Before an alcohol and drug services program may be established in a county, the court must do the following:

- (1) Have a written statement from the Indiana Judicial Center approving the establishment of the program and the plans for operation before the court may submit the petition to the legislative and appropriating body for approval.
- (2) Obtain the approval of the legislative and appropriating body from which the court derives the court's money. [IC 12-23-14-8]

The court must submit a petition for approval containing the following:

- (1) A full description of a proposed program.
- (2) A budget for the program, supported by statistics showing the total fines and costs collected by the court in the most recent year.
- (3) Details on the implementation of the program.
- (4) If the program is to be operated through a private contractor, a reference file on the contractor, including the contractor's most recent financial statement and statements of the qualifications of program staff associated with the contractor. [IC 12-23-14-9]

If the legislative and appropriating body approves the alcohol and drug services program and the operation through a private contractor, the court may direct the appropriate attorney to draft a contract governing the rights and duties of the contractor, the court, and the appropriating authority.

The court is responsible for the administration of the program. [IC 12-23-14-10]

A program established under this chapter is subject to the regulatory powers of the Indiana judicial center under IC 33-38-9-4. [IC 12-23-14-13]

EXPENSES OF PROGRAM

Expenses of an alcohol and drug services program established pursuant to IC 12-23-14 shall be paid out of the city general fund or the county general fund, and may be supplemented by payment from the user fee fund upon appropriation made under IC 33-37-8. Compensation of employees and contractors shall be fixed by the court. [IC 12-23-14-14]

GIFTS AND GRANT PERMITTED

Such a program may apply for and receive gifts, bequests and donations from private sources, grant and contract funds from governmental sources, and other forms of financial assistance to supplement the budget. [IC 12-23-14-15]

FEES - IF REQUIRED

The court may require an eligible person to pay a fee for a service of the program. If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for program services. The fee for program services, excluding reasonable fees for education or treatment and rehabilitation services, may not exceed four hundred dollars (\$400.00). Any fee collected shall be deposited in the city or county user fee fund. [IC 12-23-14-16]

ADULT PROBATION PROGRAM

ESTABLISHMENT [IC 35-38-2-1]

When the court places a person on probation it shall specify in the record the conditions of the probation.

FELONY CONVICTIONS - MANDATORY

If the person was convicted of a felony, the court shall order the person to pay to the clerk or probation department not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) as an initial probation user's fee and a monthly probation user's fee of not less than fifteen dollars (\$15.00) nor more than thirty dollars (\$30.00) for each month that the person remains on probation. Also, the court shall order the convicted person to pay the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court; an alcohol abuse deterrent fee and medical fee set by the court; and an administrative fee of one hundred dollars (\$100.00) to the probation department or the clerk.

The court may modify the conditions (except the fee payment) or terminate the probation at any time. If the person commits an additional crime the court may revoke the probation.

MISDEMEANOR CONVICTIONS - AT JUDGE'S OPTION

If the person was convicted of a misdemeanor, the court may order the person to pay to the clerk or probation department not more than fifty dollars (\$50.00) initial probation user's fee and a monthly probation user's fee of not less than ten dollars (\$10.00) nor more than twenty dollars (\$20.00) for each month that the person remains on probation. Also, the court may order the convicted person to pay the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court and an administrative fee of fifty dollars (\$50.00) to either the probation department or the clerk.

COLLECTION OF PROGRAM FEE

If the probation department collects the adult probation program fee, the probation department shall transfer the collected adult probation program fee to the county treasurer for deposit into the supplemental adult probation services fund.

If the clerk collects probation user fees, the clerk may keep not more than 3% of the initial and monthly probation user fees collected to defray administrative costs. These funds shall be deposited in the clerk's record perpetuation fund.

Additionally, if requested by the county auditor, not more than 3% of the initial and monthly probation user fees collected shall be transferred to the county general fund.

Deductions to defray administrative costs of the clerk's office and the county should not be made from probation administrative fees collected.

JUVENILE PROBATION PROGRAM

ESTABLISHMENT OF A PROGRAM OF INFORMAL ADJUSTMENT

The intake officer may implement a program of informal adjustment if the officer has probable cause to believe that the child is a delinquent child or child in need of services after the preliminary inquiry, and upon approval by the juvenile court. The child and the child's parent, guardian, custodian, or attorney must consent to the program. A program of informal adjustment may not exceed six (6) months, except by approval of the juvenile court. The juvenile court may extend a program of informal adjustment an additional three (3) months. [IC 31-34-8]

PROGRAM FEE - IN LIEU OF COURT COSTS

The juvenile court may order each child who participates in a program of informal adjustment or the child's parents to pay an informal adjustment program fee of at least five dollars (\$5.00) but not more than fifteen dollars (\$15.00) for each month the child participates in the program instead of the court costs fee. [IC 31-37-9-9]

COLLECTION OF PROGRAM FEE

The probation department for the juvenile court shall collect the informal adjustment program fee. The probation department shall transfer the collected informal adjustment fees to the county auditor monthly for deposit into the county user fee fund. [IC 31-37-9-10]

PRETRIAL DIVERSION PROGRAM

ESTABLISHMENT [IC 33-39-1-8]

A prosecuting attorney may withhold prosecution against an accused person if the person is charged with a misdemeanor; the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney; and the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney; filed in the court in which the charge is pending; and the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the council, in a manner and format designed by the council.

PROGRAM FEE - IN LIEU OF COURT COSTS

Instead of the criminal costs fee prescribed by IC 33-37-4-1, 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 an initial user's fee of fifty dollars (\$50.00) and a monthly user's fee of ten dollars (\$10.00) for each month that the person remains in the pretrial diversion program.

COLLECTION OF PROGRAM FEE

The clerk shall collect the program fee and transfer the fee to the county auditor monthly for deposit in the county user fee fund.

DEFERRAL PROGRAM

ESTABLISHMENT

A prosecuting attorney or the attorney for a municipal corporation, may establish a deferral program. Actions may be deferred against an accused person if the person is charged with an infraction or ordinance violation if:

- (1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or attorney for a municipal corporation;
- (2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or attorney for a municipal corporation;
- (3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney;
- (4) the defendant in the action agrees to pay court costs of seventy dollars (\$70.00) to the clerk of the court if the action involves a moving traffic offense;
- (5) the agreement is filed in the court in which the action is brought; and
- (6) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the council, in a manner and format designated by the council.

PROGRAM FEE - IN LIEU OF COURT COSTS

Instead of the infraction or ordinance violations costs prescribed in IC 33-37-4-2, the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney and the person charged with a violation entered into under IC 34-28-5-1 requires payment of those fees by the person charged with the violation. The deferral program fee is an initial user's fee of not to exceed fifty-two dollars (\$52.00) and a monthly user's fee not to exceed ten dollars (\$10.00) for each month the person remains in the deferral program. [IC 33-37-4-2]

COLLECTION OF PROGRAM FEE

The clerk shall collect the program fee and transfer the fee to the county auditor monthly for deposit in the county user fee fund.