

SPECIAL PROCESSES & PROCEDURES

TRAFFIC AMNESTY

CONTACT:

Michelle Goodman

michelle.goodman@courts.in.gov

Notice to Public:

This information is written to assist trial courts and circuit clerks. Please do not contact our office with questions because Indiana Supreme Court policies do not permit our office to provide legal advice to the public. We recommend that any person with questions about their case seek the advice of a licensed attorney.

The Indiana Coalition for Court Access (<https://indianalegalhelp.org/>) can assist in finding low cost legal help. Additionally, the Indiana Coalition for Court Access (<https://indianalegalhelp.org/what-if-i-dont-qualify/>) and Bar Associations provide options if you do not qualify for low cost legal aid.

This document is designed to be an overview of IC 9-33-4 regarding Traffic Amnesty and is based on IOCS's current understanding these provisions. In order to aid in implementing these provisions, we have incorporated additional practice tips underneath relevant points of the process. The statute is complicated and there may be still some questions for which there are no clear answers.

Eligibility:

A. This chapter applies to the following:

- An unpaid judgment for an infraction in Title 9 that relates to the operation of a motor vehicle committed before January 1, 2019. [IC 9-33-4-2(1)]
- A driving privileges reinstatement fee (described under IC 9-25-6-15), which a person with a suspended license is or would be required to pay to reinstate their driver's license, if the license was suspended before January 1, 2019. [IC 9-33-4-2(2)]
- Any court costs, administrative fees, late fees, or other fees imposed on a person described above (IC 9-33-4-2(1) or IC 9-33-4-2(2)). [IC 9-33-4-2(3)]

B. This chapter does not apply to:

- A person with child support arrearage, unless the person has been making the required payments for at least six (6) months preceding the date of the petition for traffic amnesty. [IC 9-33-4-1(1)]
- A person with an outstanding arrest warrant. [IC 9-33-4-1(2)]
- A person sentenced to pay restitution to the victim of the crime, if the person is not current with required payments. [IC 9-33-4-1(3)]

Case Processing:

I. Infraction cases and reinstatement fees for cases originating in Circuit/Superior Courts

- Verified petition must be filed in a circuit or superior court in the county in which the violation giving rise to the unpaid judgment was committed. [IC 9-33-4-4(a)]
- The petition shall be filed under the court case number of the infraction (IF) and no court costs are associated with filing the petition. [IC 9-33-4-4(c)]

II. Infraction cases and reinstatement fees for cases originating in City and Town Courts

- Verified petition must be filed in a circuit or superior court in the county in which the violation giving rise to the unpaid judgment was committed. [IC 9-33-4-4(a)]
- The petition should be filed with the county clerk's office under MI case type.
- No court costs are associated with filing the petition. [IC 9-33-4-4(c)]

III. Request for Relief on Reinstatement fees not associated with infraction cases

- Verified petition must be filed in a circuit or superior court in the county in which the violation giving rise to the unpaid judgment was committed. [IC 9-33-4-4(a)]
- The petition shall be filed as an MC case type.
- No court costs are associated with filing the petition. [IC 9-33-4-4(c)]
 - Practice tip:
 - Seeking a reduction of fees under this statute is an alternative to seeking a waiver of reinstatement fees under IC 9-25-6.

Petition Requirements:

- Petitions can be filed between January 1, 2020 and December 31, 2020. [IC 9-33-4-4(a)]
- The petition must contain:
 - Person's full name and all other legal names or aliases,
 - Person's date of birth,
 - The court case number of the relevant violations,
 - An affirmation that the person is not excluded under IC 9-33-4-1,
 - Person's Social Security Number,
 - Person's driver's license number, and
 - The date of the violation. [IC 9-33-4-4(a)(1-6)]
 - The person may also include any other information the person believes will assist the court. [IC 9-33-4-4(b)]
 - Practice tips:
 - Social Security Number on petition should include the last four digits to maintain compliance with confidentiality rules
 - Petitioner should include suspension id numbers to aid court with communicating to BMV the specific suspensions impacted
 - If petition involves reinstatement fees, the petitioner should verify with BMV the level of financial responsibility required for

reinstatement purposes. The petitioner should file the proof of financial responsibility with the petition or with a separate filing prior to reinstatement.

- The petition shall be served on the prosecuting attorney in accordance with Indiana Rules of Trial Procedure. [IC 9-33-4-4(d)]
- Person with infractions in multiple counties must file a separate petition in each county in which a violation was committed. [IC 9-33-4-4(f)]

Procedures following petition:

- Prosecutor has 30 days to reply to the petition and failure to timely reply waives objection to the petition. [IC 9-33-4-4(e)]
- The court can grant the petition without a hearing if the prosecutor does not object or waives objection. [IC 9-33-4-5(a)]
- The court can summarily deny the petition if the petition does not meet all of the requirements of this chapter or if the statements in the petition demonstrate the person is not entitled to relief. [IC 9-33-4-5(b)]
- If the prosecutor objects, the prosecutor shall file the reasons for objecting and serve a copy of the objections on the petitioner. The court shall set the matter for hearing not earlier than 60 days after service of the petition on the prosecutor. [IC 9-33-4-5(c)]
- The court shall grant the petition if the petitioner proves by a preponderance of the evidence that the person is qualified under this chapter and the violation giving rise to the unpaid fees was committed before January 1, 2019. [IC 9-33-4-6(a)]
- If the court grants the petition, the court shall order a 50% reduction of the unpaid fees owed by the petitioner. [IC 9-33-4-6(b)]
 - Practice tip:
 - If the court grants a petition under a MI case type, the court shall direct the city or town court clerk to apply the fee reduction and provide a copy of the order to the appropriate city or town court clerk
- If the court grants the petition and some or all the unpaid fees consist of reinstatement fees, the court shall specify in its order that the petitioner is entitled to pay 50% of the required reinstatement fees. In this circumstance, the order must also inform the petitioner they are entitled to reinstatement of their driving privileges after they pay the reduced fee, provide proof of financial responsibility to the court, and the person is determined not to be otherwise ineligible for reinstatement. [IC 9-33-4-6(b)]
 - Practice tips:
 - Proof of financial responsibility should be the level of insurance required by BMV in order to be reinstated.
 - Order should include requirement that the petitioner provide proof of financial responsibility to the court and the BMV to aid in the reinstatement process.

- The court shall state in that the order is not a conviction, finding of guilt, or finding of liability and the order is being issued under IC 9-33-4. [IC 9-33-4-6(c)]
- The court shall transmit a copy of its order to the BMV in a form and manner prescribed by the bureau. [IC 9-33-4-6(c)]
 - Practice tips:
 - The BMV only needs orders in which reinstatement fees are impacted.
 - Court must include the full driver name, date of birth, and driver license number on the order to the BMV for processing
 - Court should include suspension id numbers so BMV is clear on the specific suspensions impacted
- The grant or denial of a petition under this chapter is an appealable final order. [IC 9-33-4-6(d)]