

IC 33-23

ARTICLE 23. GENERAL PROVISIONS

IC 33-23-1

Chapter 1. Definitions

IC 33-23-1-1

Application

Sec. 1. The definitions in this chapter apply throughout this title.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-2

Chairperson

Sec. 2. "Chairperson" includes an acting chairperson.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-3

Commission on judicial qualifications

Sec. 3. "Commission on judicial qualifications", except as used in IC 33-33-71, means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-4

Crime

Sec. 4. "Crime" means a felony or a misdemeanor.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-5

Felony

Sec. 5. "Felony" means a violation of a statute for which a person may be imprisoned for more than one (1) year.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-6

Infraction

Sec. 6. "Infraction" means a violation of a statute for which a person may be fined but not imprisoned.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-7

Judicial nominating commission

Sec. 7. "Judicial nominating commission", except as used in IC 33-33-2, IC 33-33-45, and IC 33-33-71, means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-8

Judicial office

Sec. 8. "Judicial office" means the office held by a judge or justice.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-9

Misdemeanor

Sec. 9. "Misdemeanor" means a violation of a statute for which a person may be imprisoned for not more than one (1) year.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-9.5

"NICS"

Sec. 9.5. "NICS" has the meaning set forth in IC 35-47-2.5-2.5.

As added by P.L.110-2009, SEC.10.

IC 33-23-1-10

Offense

Sec. 10. "Offense" means a felony, a misdemeanor, an infraction, or a violation of a penal ordinance.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-11

Vacancy

Sec. 11. "Vacancy" means an opening in a judicial office or an opening on the judicial nominating commission that occurs by reason of death, retirement, resignation, or removal.

As added by P.L.98-2004, SEC.2.

IC 33-23-2

Chapter 2. Court Terms and Schedules

IC 33-23-2-1

Calendar year term

Sec. 1. The term of court for all courts is the calendar year and the judges of a court may act in all matters and proceedings through the entire calendar year.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-2

Continuance of trial; attendance of jury and witnesses

Sec. 2. If, at the expiration of the time fixed by law for the continuance of the term of a court, the trial of a case is progressing, the court may:

- (1) continue sitting beyond the time;
- (2) require the attendance of the jury and witnesses; and
- (3) do, transact, and enforce all other matters necessary for the determination of the case.

The term of the court may not be considered to be ended until the case has been fully disposed of by the court.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-3

Judge's time and attendance; judicial circuit of two or more courts

Sec. 3. If a judicial circuit consists of two (2) or more courts, the judge of the circuit shall divide the judge's time and the attendance in each court as the business of the courts requires.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-4

Power and control over judgments; retaining after rendering

Sec. 4. All courts retain power and control over their judgments for ninety (90) days after rendering the judgments in the same manner and under the same conditions as they retained power and control during the term of court in which the judgments were rendered.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-5

Term of court describing or fixing period of time

Sec. 5. If in any statute, rule, or order, a period is described or fixed by a term of court, a period of sixty (60) days for the purposes of time limitation only shall be substituted for the term of court.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-6

Setting for trial of cases at issue; discharge of rules upon which time has run

Sec. 6. In setting for trial a case at issue and in discharging rules

upon which time has run, a judge shall:

- (1) fix regular periods for setting cases not exceeding one hundred twenty (120) days between the periods; or
- (2) set each case by a docket sheet entry, on a day certain, with notice, either in person or by mail, of the date set to attorneys of record.

As added by P.L.98-2004, SEC.2.

IC 33-23-3

Chapter 3. Senior Judges

IC 33-23-3-1

Application for senior judge appointment

Sec. 1. (a) A circuit court, a superior court, a county court, a probate court, the tax court, or the court of appeals may apply to the supreme court for the appointment of a senior judge to serve the court.

(b) The application submitted under this section must include the following:

(1) Reasons for the request.

(2) Estimated duration of the need for a senior judge.

As added by P.L.98-2004, SEC.2. Amended by P.L.32-2005, SEC.1.

IC 33-23-3-2

Approval of application; appointment

Sec. 2. Upon approving the request by a circuit court, a superior court, a county court, a probate court, the tax court, or the court of appeals for a senior judge, the supreme court may appoint a senior judge to serve that court for the duration specified in the application submitted under section 1 of this chapter.

As added by P.L.98-2004, SEC.2. Amended by P.L.32-2005, SEC.2.

IC 33-23-3-3

Service of senior judge

Sec. 3. A senior judge:

(1) exercises the jurisdiction granted to the court served by the senior judge;

(2) may serve as a domestic relations mediator, subject to the code of judicial conduct;

(3) serves at the pleasure of the supreme court; and

(4) serves in accordance with rules adopted by the supreme court under IC 33-24-3-7.

A senior judge serving as a domestic relations mediator is not entitled to reimbursement or a per diem under section 5 of this chapter. A senior judge serving as a domestic relations mediator may receive compensation from the alternative dispute resolution fund under IC 33-23-6 in accordance with the county domestic relations alternative dispute resolution plan.

As added by P.L.98-2004, SEC.2.

IC 33-23-3-4

Assignment to serve; acceptance; rejection

Sec. 4. The supreme court may not require a senior judge to accept an assignment to serve a circuit court, a superior court, a county court, a probate court, the tax court, or the court of appeals. If a senior judge declines an assignment to serve, the supreme court may offer the senior judge subsequent assignments to serve a circuit court, a superior court, a county court, a probate court, the tax court,

or the court of appeals.

As added by P.L.98-2004, SEC.2. Amended by P.L.32-2005, SEC.3.

IC 33-23-3-5

Compensation

Sec. 5. (a) A senior judge is entitled to the following compensation:

(1) For each of the first thirty (30) days of service in a calendar year, a per diem of one hundred dollars (\$100).

(2) Except as provided in subsection (c), for each day the senior judge serves after serving the first thirty (30) days of service in a calendar year, a per diem of two hundred fifty dollars (\$250).

(3) Reimbursement for:

(A) mileage; and

(B) reasonable expenses, including but not limited to meals and lodging, incurred in performing service as a senior judge;

for each day served as a senior judge.

(b) Subject to subsection (c), the per diem and reimbursement for mileage and reasonable expenses under subsection (a) shall be paid by the state.

(c) The compensation under subsection (a)(2) must be paid by the state from funds appropriated to the supreme court for judicial payroll. If the payroll fund is insufficient to pay the compensation under subsection (a)(2), the supreme court may issue an order adjusting the compensation rate.

(d) A senior judge appointed under this chapter may not be compensated as a senior judge for more than one hundred (100) total calendar days during a calendar year.

As added by P.L.98-2004, SEC.2. Amended by P.L.246-2005, SEC.220; P.L.119-2007, SEC.1.

IC 33-23-4

Chapter 4. Court Administrators

IC 33-23-4-1

Application of chapter

Sec. 1. This chapter does not apply to a county having a court administrator under Indiana law before July 29, 1975.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-2

Creation of position

Sec. 2. The position of court administrator may be created by a majority vote of the judges in section 3 of this chapter in every county having a population according to the last United States decennial census of more than one hundred thousand (100,000) persons.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-3

Appointment

Sec. 3. The court administrator shall be appointed by and serve at the pleasure of the majority of the judges of the following courts of the county sitting in committee:

- (1) Circuit court.
- (2) Superior court.
- (3) Juvenile court.
- (4) Probate court.
- (5) Criminal court.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-4

Full-time position

Sec. 4. The court administrator:

- (1) shall devote full time to the court administrator's official duties; and
- (2) may not engage in any other profession for profit.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-5

Duties; salary

Sec. 5. (a) Sitting in committee, the judges of the courts listed in section 3 of this chapter in each county shall determine the duties of the court administrator; and the court administrator shall perform the administrative duties the judges determine.

(b) The salary of the court administrator shall be determined by a majority of the judges listed in section 3 of this chapter in each county, sitting in committee. The court administrator's salary shall be paid by the county upon the order of the majority of the committee of judges.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-6**Additional personnel; salaries**

Sec. 6. (a) To implement this chapter, the judges of the courts, sitting in committee, may appoint additional personnel in sufficient number so that the courts are adequately served by the court administrator.

(b) The salaries of the additional personnel shall be paid by the county upon the order of the committee of judges.

As added by P.L.98-2004, SEC.2.

IC 33-23-5

Chapter 5. Magistrates

IC 33-23-5-1

Application of chapter

Sec. 1. This chapter applies to a court expressly authorized by statute to appoint a full-time magistrate.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-2

Qualifications

Sec. 2. A magistrate must be admitted to the practice of law in Indiana.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-3

Restriction on practice of law

Sec. 3. A magistrate may not engage in the practice of law while holding the office of magistrate.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-4

Confidentiality of applicant files

Sec. 4. The files of applicants for appointment as a magistrate, including the names of applicants, are confidential as provided in IC 5-14-3-4(b)(8).

As added by P.L.98-2004, SEC.2.

IC 33-23-5-5

Powers of magistrate

Sec. 5. A magistrate may do any of the following:

- (1) Administer an oath or affirmation required by law.
- (2) Solemnize a marriage.
- (3) Take and certify an affidavit or deposition.
- (4) Order that a subpoena be issued in a matter pending before the court.
- (5) Compel the attendance of a witness.
- (6) Punish contempt.
- (7) Issue a warrant.
- (8) Set bail.
- (9) Enforce court rules.
- (10) Conduct a preliminary, an initial, an omnibus, or other pretrial hearing.
- (11) Conduct an evidentiary hearing or trial.
- (12) Receive a jury's verdict.
- (13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.
- (14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described in section 9 of this chapter.

(15) Enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

As added by P.L.98-2004, SEC.2. Amended by P.L.127-2008, SEC.3.

IC 33-23-5-6

Service as judge pro tempore or special judge

Sec. 6. A magistrate may serve as a judge pro tempore or as a special judge of the court. A magistrate is not entitled to additional compensation for service under this section.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-7

Administrative duties

Sec. 7. The court may assign a magistrate administrative duties that are consistent with this chapter.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-8

Judicial mandate; final appealable order

Sec. 8. Except as provided under sections 5(14) and 9(b) of this chapter, a magistrate:

- (1) does not have the power of judicial mandate; and
- (2) may not enter a final appealable order unless sitting as a judge pro tempore or a special judge.

As added by P.L.98-2004, SEC.2. Amended by P.L.127-2008, SEC.4.

IC 33-23-5-9

Findings; final orders; sentencing hearing; sentencing

Sec. 9. (a) Except as provided under subsection (b), a magistrate shall report findings in an evidentiary hearing, a trial, or a jury's verdict to the court. The court shall enter the final order.

(b) If a magistrate presides at a criminal trial, the magistrate may do the following:

- (1) Enter a final order.
- (2) Conduct a sentencing hearing.
- (3) Impose a sentence on a person convicted of a criminal offense.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-10

Salary

Sec. 10. A magistrate is entitled to an annual salary equal to eighty percent (80%) of the salary of a judge under IC 33-38-5-6.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-11

Source of salary

Sec. 11. Except as provided in section 12 of this chapter, the state

shall pay the salary of a magistrate. A county located in the circuit that the magistrate serves may supplement the magistrate's salary.
As added by P.L.98-2004, SEC.2.

IC 33-23-5-12

Juvenile court magistrate salary

Sec. 12. The salary of a magistrate appointed under IC 31-31-3-2 shall be paid in accordance with IC 33-38-5-7.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-13

Participation in retirement systems

Sec. 13. (a) Except as provided in subsection (b), a magistrate may:

(1) participate in the public employees' retirement fund as provided in IC 5-10.3; or

(2) elect to remain in the judges' retirement system under IC 33-38 if the magistrate had previously participated in the system.

(b) A person who:

(1) is serving as a full-time magistrate on July 1, 2010, and makes an election under IC 33-38-8-10.5; or

(2) begins serving as a full-time magistrate after July 1, 2010; shall, beginning January 1, 2011, participate in the judges' 1985 benefit system under IC 33-38-8.

As added by P.L.98-2004, SEC.2. Amended by P.L.122-2008, SEC.1.

IC 33-23-6

Chapter 6. Circuit Court and Superior Court Domestic Relations Alternative Dispute Resolution

IC 33-23-6-1

Alternative dispute resolution fee

Sec. 1. (a) In addition to the fees required under IC 33-37-4-4, if a county meets the requirements of this chapter, the clerk of the court shall collect from the party filing a petition for legal separation, paternity, or dissolution of marriage under IC 31 an alternative dispute resolution fee of twenty dollars (\$20).

(b) Not later than thirty (30) days after the clerk collects a fee under subsection (a), the clerk shall forward to the county auditor the alternative dispute resolution fee. The county auditor shall deposit the fee forwarded by the clerk under this section into the alternative dispute resolution fund.

As added by P.L.98-2004, SEC.2.

IC 33-23-6-2

Alternative dispute resolution fund; copayment for services; prohibition on mediation

Sec. 2. (a) In each county participating in the program under this chapter, there is established an alternative dispute resolution fund for each of the following:

- (1) The circuit court.
- (2) The superior court.
- (3) The probate court established by IC 33-31-1.

(b) Notwithstanding subsection (a), if more than one (1) court exercises jurisdiction over domestic relations and paternity cases in a county, one (1) alternative dispute resolution fund may be established to be used by all the courts to implement this chapter if:

- (1) the:
 - (A) county auditor; and
 - (B) judge of each court that exercises jurisdiction over domestic relations and paternity cases in the county; agree to establish one (1) fund; and
- (2) the agreement to establish the fund is included in the plan adopted by the county under section 3 of this chapter.

(c) The sources of money for each fund established under subsection (a) or (b) are:

- (1) the alternative dispute resolution fee collected under section 1 of this chapter for the circuit court, superior court, or probate court, respectively; and
- (2) copayments collected under subsection (d) if:
 - (A) a county chooses to deposit the copayments into the fund; and
 - (B) the county specifies in the plan adopted by the county under section 3 of this chapter that the copayments will be deposited in the fund.

(d) The funds shall be used to foster domestic relations alternative

dispute resolution, including:

- (1) mediation;
- (2) reconciliation;
- (3) nonbinding arbitration; and
- (4) parental counseling.

Litigants referred by the court to services covered by the fund shall make a copayment for the services in an amount determined by the court based on the litigants' ability to pay. The fund shall be administered by the circuit, superior, or probate court that exercises jurisdiction over domestic relations and paternity cases in the county. A fund used by multiple courts under subsection (b) shall be administered jointly by all the courts using the fund. Money in each fund at the end of a fiscal year does not revert to the county general fund but remains in the fund for the uses specified in this section.

(e) Each circuit, superior, or probate court that administers an alternative dispute resolution fund shall ensure that money in the fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay, in accordance with the plan adopted by the county under section 3 of this chapter.

(f) A court may not order parties into mediation or refer parties to mediation if a party is currently charged with or has been convicted of a crime:

- (1) under IC 35-42; or
- (2) in another jurisdiction that is substantially similar to the elements of a crime described in IC 35-42.

As added by P.L.98-2004, SEC.2. Amended by P.L.55-2005, SEC.1.

IC 33-23-6-3

Plan; judicial approval

Sec. 3. (a) A county desiring to participate in the program under this chapter must:

- (1) develop a plan to carry out the purposes of section 2 of this chapter that is approved by a majority of the judges in the county exercising jurisdiction over domestic relations and paternity cases; and
- (2) submit the plan to the judicial conference of Indiana.

(b) The plan under subsection (a) must include:

- (1) information concerning how the county proposes to carry out the purposes of the domestic relations alternative dispute resolution fund as set out in section 2 of this chapter; and
- (2) a method of ensuring that the money in the alternative dispute resolution fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay.

The plan may include the use of senior judges as mediators in domestic relations cases as assigned by the supreme court. The judicial conference of Indiana may request additional information from the county as necessary.

As added by P.L.98-2004, SEC.2.

IC 33-23-6-4

Annual report

Sec. 4. A county that participates in the program under this chapter shall submit a report to the judicial conference of Indiana not later than December 31 of each year summarizing the results of the program.

As added by P.L.98-2004, SEC.2.

IC 33-23-7

Chapter 7. Juvenile Court Jurisdiction

IC 33-23-7-1

Circuit courts; exception

Sec. 1. A circuit court has juvenile jurisdiction unless this title provides that another court in the same county has exclusive juvenile jurisdiction.

As added by P.L.98-2004, SEC.2.

IC 33-23-7-2

Other courts; conditions of jurisdiction

Sec. 2. A court other than a circuit court has juvenile jurisdiction only if:

(1) this title specifically provides that the court has juvenile jurisdiction; or

(2) this title provides that the court has the same jurisdiction as a circuit court having juvenile jurisdiction.

As added by P.L.98-2004, SEC.2.

IC 33-23-7-3

Juvenile court docket, order book, and records

Sec. 3. (a) When in session under this chapter, a court shall be known as the juvenile court.

(b) A juvenile court shall maintain its own docket, order book, and records.

As added by P.L.98-2004, SEC.2.

IC 33-23-7-4

Rules

Sec. 4. A juvenile court may adopt rules to:

(1) simplify; and

(2) expedite;

its own proceedings and decisions.

As added by P.L.98-2004, SEC.2.

IC 33-23-8

Chapter 8. Notice to Licensing Body of Insurance Fraud Conviction

IC 33-23-8-1

"Governmental body" defined

Sec. 1. As used in this chapter, "governmental body" means an agency, a board, or a commission of the legislative, executive, or judicial branch of state government.

As added by P.L.98-2004, SEC.2.

IC 33-23-8-2

"License" defined

Sec. 2. As used in this chapter, "license" means an occupational or a professional license, registration, permit, or certificate issued by a governmental body.

As added by P.L.98-2004, SEC.2.

IC 33-23-8-3

"Practitioner" defined

Sec. 3. As used in this section, "practitioner" means a person who holds a license. The term includes the following:

- (1) An attorney.
- (2) A person practicing an occupation or a profession that is licensed under IC 27 or by a board referred to in IC 25-1-2-6(b).

As added by P.L.98-2004, SEC.2.

IC 33-23-8-4

Insurance fraud conviction notice

Sec. 4. If a practitioner is convicted under IC 35-43-5-4.5 of:

- (1) insurance fraud;
- (2) an attempt to commit insurance fraud; or
- (3) conspiracy to commit insurance fraud;

the sentencing court shall provide notice of the conviction to each governmental body that has issued a license to the practitioner.

As added by P.L.98-2004, SEC.2. Amended by P.L.181-2005, SEC.3.

IC 33-23-9

Chapter 9. Protection of Indiana National Guard Members on Active Duty

IC 33-23-9-1

Guarantors of Indiana national guard members

Sec. 1. (a) An Indiana state court may grant the rights, benefits, and protections described in Section 513 of the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 513, as amended and in effect on January 1, 2003, to a person primarily or secondarily liable on an obligation or a liability of an Indiana national guard member to whom IC 10-16-7-23 applies.

(b) All rights, benefits, and protections granted to a person under subsection (a) are in addition to the rights, benefits, and protections granted the person under the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 501 et seq., as amended and in effect on January 1, 2003.

As added by P.L.98-2004, SEC.2.

IC 33-23-10

Chapter 10. Commission on Courts

IC 33-23-10-1

Establishment

Sec. 1. The commission on courts is established.

As added by P.L.98-2004, SEC.2.

IC 33-23-10-2

Members

Sec. 2. The commission on courts is composed of the following thirteen (13) members:

(1) The chief justice of the supreme court or a representative designated by the chief justice.

(2) Four (4) members from the house of representatives, appointed by the speaker of the house of representatives, not more than two (2) of whom are from the same political party.

(3) Four (4) members from the senate, appointed by the president pro tempore of the senate, not more than two (2) of whom are from the same political party.

(4) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the president pro tempore of the senate as follows:

(A) One (1) member must be a sitting judge.

(B) One (1) member must be a county commissioner.

(5) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the speaker of the house of representatives as follows:

(A) One (1) member must be a member of a county council.

(B) One (1) member must be a circuit court clerk.

As added by P.L.98-2004, SEC.2.

IC 33-23-10-3

Term of members

Sec. 3. Each appointed member of the commission on courts serves for a term of four (4) years.

As added by P.L.98-2004, SEC.2.

IC 33-23-10-4

Chairperson and vice chairperson

Sec. 4. The chairman of the legislative council shall appoint the chairperson and vice chairperson of the commission on courts from among the legislative members of the commission. The chairperson and vice chairperson:

(1) may not be members of the same political party;

(2) may not be from the same house of the general assembly;
and

(3) must be appointed from a different house of the general assembly each year.

As added by P.L.98-2004, SEC.2.

IC 33-23-10-5

Compensation; expenses

Sec. 5. (a) Each member of the commission on courts who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

As added by P.L.98-2004, SEC.2.

IC 33-23-10-6

Staff; administrative duties and functions

Sec. 6. (a) The legislative services agency shall employ necessary staff to carry out the administrative duties and functions of the commission on courts, including the following:

- (1) Giving notices of commission meetings and other communication services.
- (2) Keeping records related to commission meetings, proceedings, and actions.
- (3) Preparing the report required under section 7 of this chapter.
- (4) Providing the detailed investigation necessary for the commission to fulfill the duties imposed under section 7 of this chapter.
- (5) Preparing draft proposals required under section 7 of this chapter.

(b) The legislative services agency shall not expend more than forty-eight thousand dollars (\$48,000) per year to employ the staff required under subsection (a).

As added by P.L.98-2004, SEC.2.

IC 33-23-10-7

Duties of commission

Sec. 7. The commission on courts shall do the following:

- (1) Review and report on all requests for new courts or changes in jurisdiction of existing courts. A request for review under this subdivision must be received by the commission not later than July 1 of each year. A request received after July 1 may not be considered unless a majority of the commission members

agrees to consider the request.

(2) Conduct research concerning requests for new courts or changes in jurisdiction of existing courts. The research may include conducting surveys sampling members of the bar, members of the judiciary, and local officials to determine needs and problems.

(3) Conduct public hearings throughout Indiana concerning requests for new courts or changes in jurisdiction of existing courts. The commission shall hold at least one (1) public hearing on each request presented to the commission.

(4) Review and report on any other matters relating to court administration that the commission determines appropriate, including the following:

(A) Court fees.

(B) Court personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(C) Salaries of court officers and personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(D) Jury selection.

(E) Any other issues relating to the operation of the courts.

(5) Submit a report in an electronic format under IC 5-14-6 before November 1 of each year to the general assembly. The report must include the following:

(A) A recommendation on all requests considered by the commission during the preceding year for the creation of new courts or changes in the jurisdiction of existing courts.

(B) If the commission recommends the creation of new courts or changes in jurisdiction of existing courts, the following:

(i) A draft of legislation implementing the changes.

(ii) A fiscal analysis of the cost to the state and local governments of implementing recommended changes.

(iii) Summaries of any research supporting the recommended changes.

(iv) Summaries of public hearings held concerning the recommended changes.

(C) A recommendation on any issues considered by the commission under subdivision (4).

As added by P.L.98-2004, SEC.2.

IC 33-23-10-8

Expiration of chapter

Sec. 8. This chapter expires June 30, 2011.

As added by P.L.98-2004, SEC.2. Amended by P.L.5-2007, SEC.1.

IC 33-23-11

Chapter 11. Ethics

IC 33-23-11-1

"Cause" defined

Sec. 1. As used in this chapter, "cause" means a trial, a hearing, an arraignment, a controversy, an appeal, a case, or any business performed within the official duty of a justice, judge, or prosecuting attorney.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-2

"Close relative" defined

Sec. 2. As used in this chapter, "close relative" means a person related to:

- (1) another person filing a statement of economic interest; or
- (2) the other person's spouse as a son, a daughter, a grandson, a granddaughter, a great-grandson, a great-granddaughter, a father, a mother, a grandfather, a grandmother, a great-grandfather, a great-grandmother, a brother, a sister, a nephew, a niece, an uncle, or an aunt.

For purposes of this section, relatives by adoption, half-blood, marriage, or remarriage are treated as relatives of whole kinship.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-3

"Compensation" defined

Sec. 3. As used in this chapter, "compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or for services to be rendered, whether by that person or another.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-4

"Economic interest" defined

Sec. 4. As used in this chapter, "economic interest" means substantial financial interest in investments, employment, awarding of contracts, purchases, leases, sales, or similar matters.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-5

"Employer" defined

Sec. 5. As used in this chapter, "employer" means any person from whom the judge, justice, or prosecuting attorney or the spouse of the judge, justice, or prosecuting attorney receives any nonstate income.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-6

"Information of a confidential nature" defined

Sec. 6. As used in this chapter, "information of a confidential nature" means information that:

- (1) is obtained by reason of the position or office held; and
- (2) has not been or will not be communicated to the general public.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-7

"Judge" defined

Sec. 7. (a) As used in this chapter, "judge" means a judge of the court of appeals, the tax court, or a circuit, superior, county, small claims, or probate court.

(b) The term includes a judge pro tempore, commissioner, or hearing officer if the judge pro tempore, commissioner, or hearing officer sits more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as a judge, commissioner, or hearing officer in any court.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-8

"Person" defined

Sec. 8. As used in this chapter, "person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-9

Participation in cause; economic interest

Sec. 9. A justice, judge, or prosecuting attorney may not participate in a cause that involves a matter in which the justice, judge, or prosecuting attorney or a member of the family of the justice, judge, or prosecuting attorney has an economic interest.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-10

Influence upon actions involving legislator

Sec. 10. The actions of a justice, judge, or prosecuting attorney in a cause that involves a legislator or a member of a legislator's family may not be influenced by any matters previously considered or to be considered by the legislator in the general assembly.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-11

Disclosure of economic interest

Sec. 11. A justice, judge, or prosecuting attorney shall promptly and fully disclose any economic interest or other personal stake the justice, judge, or prosecuting attorney or a member of the family of the justice, judge, or prosecuting attorney may have in a cause in

which the justice, judge, or prosecuting attorney is a participant.
As added by P.L.98-2004, SEC.2.

IC 33-23-11-12

Compensation resulting from material information

Sec. 12. A justice, judge, or prosecuting attorney may not accept any compensation from any employment, transaction, or investment that was entered into or made as a result of material information of a confidential nature.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-13

Excessive compensation for sale, lease, or service

Sec. 13. A justice, judge, or prosecuting attorney may not accept compensation for the sale or lease of any property or service that exceeds the amount that the justice, judge, or prosecuting attorney would charge in the ordinary course of business from any person or entity whom the justice, judge, or prosecuting attorney knows, or has reason to know, has an economic interest in the outcome of a current or future cause in which the justice, judge, or prosecuting attorney is or may be a participant.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-14

Annual statement of economic interests

Sec. 14. (a) The following shall file with the commission on judicial qualifications an annual statement of economic interests:

(1) Justices, judges, and prosecuting attorneys.

(2) Except as provided in subsection (c), any candidate for one (1) of the offices listed in subdivision (1) who is not the holder of that office.

(b) Justices and judges who are candidates for retention in office are subject to IC 3-9.

(c) This section does not apply to a candidate for an appointment pro tempore to fill a vacancy in an office under IC 3-13.

As added by P.L.98-2004, SEC.2. Amended by P.L.127-2008, SEC.5.

IC 33-23-11-15

Filing of statement

Sec. 15. (a) The statement of economic interests must be filed with the commission on judicial qualifications:

(1) not later than February 1 if the individual is required to file the statement as an officeholder; or

(2) if a candidate for office, before the individual (or a political party officer acting on behalf of the individual) files:

(A) a declaration of candidacy, if required under IC 3-8-2 or IC 3-8-4-11;

(B) a certified petition of nomination with the Indiana election division under IC 3-8-6;

(C) a certificate of nomination under IC 3-8-7-8;

(D) a certificate of candidate selection under IC 3-13-1 or IC 3-13-2; or

(E) a declaration of intent to be a write-in candidate, if required under IC 3-8-2.

(b) In a county where judges are selected by a county commission on judicial qualifications, a candidate must file a statement with the county commission on judicial qualifications and with the commission on judicial qualifications.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-16

Contents of statement of economic interests

Sec. 16. The statement of economic interests must set forth the following information for the preceding calendar year:

(1) The name and address of any person other than a spouse or close relative from whom the justice, judge, or prosecuting attorney received a gift or gifts having a total fair market value of more than one hundred dollars (\$100).

(2) The name of the employer of the justice, judge, or prosecuting attorney and the employer of the spouse of the justice, judge, or prosecuting attorney.

(3) The nature of the employer's business.

(4) The name of any sole proprietorship owned or professional practice operated by the justice, judge, or prosecuting attorney, or the spouse of the justice, judge, or prosecuting attorney, and the nature of the business.

(5) The name of any partnership of which the justice, judge, or prosecuting attorney, or the spouse of the justice, judge, or prosecuting attorney, is a member and the nature of the partnership's business.

(6) The name of any corporation (except a church) of which the justice, judge, or prosecuting attorney, or the spouse of the justice, judge, or prosecuting attorney, is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the justice, judge, or prosecuting attorney, or the spouse or unemancipated children less than eighteen (18) years of age of the justice, judge, or prosecuting attorney, owns stock or stock options having a fair market value of more than ten thousand dollars (\$10,000).

As added by P.L.98-2004, SEC.2. Amended by P.L.127-2008, SEC.6.

IC 33-23-11-17

Supreme court or court of appeals; prohibited activities of judges

Sec. 17. A justice of the supreme court or judge of the court of appeals may not:

(1) engage in the practice of law;

(2) run for elected office other than a judicial office;

(3) directly or indirectly make any contribution to, or hold any office in, a political party or organization; or

(4) take part in any political campaign;

as provided in Article 7, Section 11 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.2.

IC 33-23-12

Chapter 12. Political Activity of Court Employees

IC 33-23-12-1

Legislative findings

Sec. 1. The general assembly finds that:

- (1) the right of every citizen to freely participate in political activity is inherent in the guarantee of free speech contained in Article 1, Section 9 of the Constitution of the State of Indiana and in Amendment I to the Constitution of the United States;
- (2) the right to freely participate in political activity is guaranteed to state employees under IC 4-15-10-2;
- (3) the judiciary is not less subject to constitutional strictures against governmental interference with the free exercise of speech than are the executive and legislative branches of government; and
- (4) employees in the judicial branch of state government have the same rights guaranteed to all Indiana citizens.

As added by P.L.98-2004, SEC.2.

IC 33-23-12-2

"Court employee" defined

Sec. 2. (a) As used in this chapter, "court employee" means a person employed by any of the following:

- (1) The supreme court.
- (2) The court of appeals.
- (3) The tax court.
- (4) A circuit court.
- (5) A superior court.
- (6) A juvenile court.
- (7) A probate court.
- (8) A county court.
- (9) A municipal court.
- (10) A city or town court.
- (11) A small claims court.

(b) The term does not include a judge of any of the courts listed in subsection (a)(1) through (a)(11).

As added by P.L.98-2004, SEC.2.

IC 33-23-12-3

Right to participate in or abstain from political activity

Sec. 3. Except when on duty or acting in an official capacity and except where otherwise provided by state or federal law, a court employee may not be:

- (1) discouraged from engaging in political activity; or
- (2) denied the right to choose to refrain from engaging in political activity.

As added by P.L.98-2004, SEC.2.

IC 33-23-13

Chapter 13. Defense of Judges and Prosecuting Attorneys

IC 33-23-13-1

"Judge" defined

Sec. 1. As used in this chapter, "judge" has the meaning set forth in IC 33-38-12-3.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-2

"Prosecuting attorney" defined

Sec. 2. As used in this chapter, "prosecuting attorney" includes a senior prosecuting attorney appointed under IC 33-39-1.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-3

Defense by attorney general or private counsel

Sec. 3. If a judge or prosecuting attorney is sued for civil damages or equitable relief and the suit would be construed, under notice pleading, as arising out of an act performed within the scope of the duties of the judge or prosecuting attorney, the attorney general shall:

- (1) defend the judge or prosecuting attorney in the suit; or
- (2) authorize the executive director of the division of state court administration to hire private counsel to provide the defense.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-4

Criminal or disciplinary proceedings

Sec. 4. This chapter does not permit the appointment of counsel for the defense of a judge or prosecuting attorney in criminal or disciplinary proceedings.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-5

Right to select defense counsel; responsibility for civil damages

Sec. 5. This chapter does not:

- (1) deprive a judge or prosecuting attorney of the judge's or prosecuting attorney's right to select defense counsel of the judge's or prosecuting attorney's own choice at the judge's or prosecuting attorney's own expense; or
- (2) relieve a prosecuting attorney from responsibility for civil damages.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-6

Attorney general employment of legal and other professional services

Sec. 6. The attorney general may employ legal and other professional services necessary to adequately and fully perform the duties required by this chapter.

As added by P.L.98-2004, SEC.2.

IC 33-23-14

Repealed

(Repealed by P.L.108-2010, SEC.10.)

IC 33-23-15

Chapter 15. NICS Appeals

IC 33-23-15-1

Application of chapter

Sec. 1. This chapter applies to the following:

- (1) A person civilly committed under IC 12-26-6-8.
- (2) A person found to be mentally ill and either dangerous or gravely disabled under IC 12-26-7-5.
- (3) A person found guilty but mentally ill under IC 35-36-2-5.
- (4) A person found not responsible by reason of insanity under IC 35-36-2-4.
- (5) A person found incompetent to stand trial under IC 35-36-3-1.
- (6) A confined offender who is determined to be mentally ill and has been involuntarily transferred to and accepted by the division of mental health and addiction under IC 11-10-4-3.

As added by P.L.110-2009, SEC.11.

IC 33-23-15-2

Petition for review; evidence; findings by court or department of correction

Sec. 2. (a) If a person described in section 1 of this chapter:

- (1) has been released from commitment; or
- (2) successfully completes a treatment or rehabilitation program;

the person may petition the court (if the adjudication leading to the person's commitment, rehabilitation, or treatment program was from a court) or the department of correction (if the determination leading to the person's rehabilitation or treatment program was from a psychiatrist employed by or retained by the department of correction) to determine whether the person is prohibited from possessing a handgun because the person is not a proper person under IC 35-47-1-7(5) or IC 35-47-1-7(6).

(b) In determining whether the person is prohibited from possessing a handgun because the person is not a proper person under IC 35-47-1-7(5) or IC 35-47-1-7(6), the court or department of correction shall consider the following evidence:

- (1) The facts and circumstances leading to the person being included in the category of persons to whom this chapter applies.
- (2) The person's mental health and criminal history records.
- (3) Evidence concerning the person's reputation, including the testimony of character witnesses.
- (4) A recent mental health evaluation by a psychiatrist or psychologist licensed to practice in Indiana.

(c) If the court or the department of correction, after considering the evidence described in subsection (b), finds by clear and convincing evidence that:

- (1) the person is not a danger to the person or to others;

(2) the person is not likely to act in a manner dangerous to public safety; and

(3) the requested relief would not be contrary to public interest; the court or department of correction shall transmit its findings to the department of state court administration, and any other information required by the division of state court administration, for transmission to the NICS in accordance with IC 33-24-6-3.

(d) A determination under this section may be appealed only in accordance with section 3 of this chapter.

As added by P.L.110-2009, SEC.11.

IC 33-23-15-3

Judicial review of decision

Sec. 3. (a) A person who receives an adverse decision under section 2 of this chapter may seek review of the decision by filing, not later than thirty (30) days after receiving the adverse decision, an action for review:

(1) in the court of conviction, if the adverse decision was made by the department of correction; or

(2) in a circuit or superior court in a county adjacent to the county in which the court rendered the adverse decision, if the adverse decision was made by a court.

(b) The court hearing an action for review filed under this section shall conduct the review hearing de novo. The hearing shall be conducted in accordance with section 2 of this chapter.

(c) The determination of a court under this section is a final appealable order.

As added by P.L.110-2009, SEC.11. Amended by P.L.1-2010, SEC.131.

IC 33-23-16

Chapter 16. Problem Solving Courts

IC 33-23-16-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-38-9-4.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-2

"Chemical test"

Sec. 2. As used in this chapter, "chemical test" means an analysis of an individual's:

- (1) blood;
- (2) breath;
- (3) hair;
- (4) sweat;
- (5) saliva;
- (6) urine; or
- (7) other bodily substance;

to determine the presence of alcohol or a controlled substance (as defined in IC 35-48-1-9).

As added by P.L.108-2010, SEC.4.

IC 33-23-16-3

"Community court"

Sec. 3. As used in this chapter, "community court" means a problem solving court focused on addressing specific neighborhood or local criminal problems by:

- (1) bringing together criminal justice professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible defendants or juveniles to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-4

"Domestic violence court"

Sec. 4. As used in this chapter, "domestic violence court" means a problem solving court focused on the safety of the victim and the defendant's accountability by:

- (1) bringing together criminal justice professionals, local social programs, and intensive judicial monitoring;
- (2) linking victims to programs and services; and
- (3) linking eligible defendants and juveniles to programs and services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-5

"Drug court"

Sec. 5. (a) As used in this chapter, "drug court" means a problem

solving court focused on addressing the substance abuse issues of defendants or juveniles in the criminal justice system by:

- (1) bringing together substance abuse rehabilitation professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible defendants or juveniles to individually tailored programs or services.

(b) The term does not include an alcohol abuse deterrent program established under IC 9-30-9.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-6

"Family dependency drug court"

Sec. 6. As used in this chapter, "family dependency drug court" means a problem solving court focused on supporting families that include a child who has been adjudicated a child in need of services and a parent, guardian, or other household member who has substance abuse problems by:

- (1) bringing together substance abuse rehabilitation professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible parents, guardians, other household members, and juveniles to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-7

"Mental health court"

Sec. 7. As used in this chapter, "mental health court" means a problem solving court focused on addressing the mental health needs of individuals in the court system by:

- (1) bringing together mental health professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible individuals to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-8

"Problem solving court"

Sec. 8. As used in this chapter, "problem solving court" means a court providing a process for immediate and highly structured judicial intervention for eligible individuals that incorporates the following problem solving concepts:

- (1) Enhanced information to improve decision making.
- (2) Engaging the community to assist with problem solving.
- (3) Collaboration with social service providers and other stakeholders.
- (4) Linking participants with community services based on risk and needs.
- (5) Participant accountability.

(6) Evaluating the effectiveness of operations continuously.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-9

"Reentry court"

Sec. 9. As used in this chapter, "reentry court" means a problem solving court that is focused on the needs of individuals who reenter the community after a period of incarceration and that may provide a range of necessary reintegration services for eligible individuals, including the following:

- (1) Supervision.
- (2) Offender assessment.
- (3) Judicial involvement.
- (4) Case management and services.
- (5) Program evaluation.
- (6) Counseling.
- (7) Rehabilitative care.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-10

"Veterans' court"

Sec. 10. As used in this chapter, "veterans' court" means a problem solving court focused on addressing the needs of veterans in the court system by:

- (1) bringing together substance abuse rehabilitation professionals, mental health professionals, local social programs, and intensive judicial monitoring; and
- (2) linking eligible veterans to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-11

Establishment of a problem solving court

Sec. 11. A city court or county court may establish a problem solving court. A problem solving court established under this section may be a:

- (1) drug court;
- (2) mental health court;
- (3) family dependency drug court;
- (4) community court;
- (5) reentry court;
- (6) domestic violence court;
- (7) veteran's court; or
- (8) any other court certified as a problem solving court by the Indiana judicial center under section 17 of this chapter.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-12

Jurisdiction and eligibility requirements for problem solving courts

Sec. 12. (a) A problem solving court and accompanying services of the problem solving court are available only to individuals over whom the court that established the problem solving court has jurisdiction.

(b) A problem solving court with criminal jurisdiction that does not have felony jurisdiction may assume jurisdiction over an individual convicted of a felony from another court within the county if the problem solving court returns the case to the referring court for additional proceedings when:

- (1) the individual has successfully completed the problem solving court's program; or
- (2) the individual's participation in the problem solving court program is terminated by the problem solving court.

(c) The board shall adopt rules prescribing minimum eligibility criteria for an individual to participate in a problem solving court program.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-13

Individual eligibility requirements

Sec. 13. An individual is eligible to participate in a problem solving court program only if:

- (1) the individual meets all of the eligibility criteria established by the board under section 12 of this chapter;
- (2) the judge of the problem solving court approves the admission of the individual to the problem solving court program; and
- (3) the individual is referred to the problem solving court as a result of at least one (1) of the following:

- (A) A condition of a pretrial diversion program authorized by statute or authorized by the judge of the problem solving court and the prosecuting attorney.
- (B) The procedure described in section 14 of this chapter.
- (C) The procedure described in section 15 of this chapter.
- (D) A condition of probation.
- (E) A condition of participation in a community corrections program under IC 11-12-1.
- (F) A condition of participation in a forensic diversion program under IC 11-12-3.7.
- (G) A condition of a community transition program under IC 11-10-11.5.
- (H) A condition of parole.
- (I) An order in a dispositional decree under IC 31-34-20 to participate in a family dependency drug court if the individual is a parent, guardian, or another household member of a child adjudicated a child in need of services.
- (J) A condition of an informal adjustment program under IC 31-37-9.
- (K) Involvement in:
 - (i) a child support proceeding;

- (ii) a mental health commitment; or
- (iii) a civil protection proceeding.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-14

Deferred prosecution

Sec. 14. (a) A problem solving court, without entering a judgment of conviction, may defer proceedings against an individual and place the individual in a problem solving court program under this section only if:

- (1) the individual meets the conditions for eligibility set forth in section 13(1) and 13(2) of this chapter;
- (2) the individual pleads guilty and consents to the referral; and
- (3) the judge of the problem solving court, the prosecuting attorney, and the individual all agree upon certain conditions for the individual's participation in the problem solving court program and on the duration of those conditions.

(b) If the judge of a problem solving court determines, after a hearing, that:

- (1) an individual participating in a problem solving court program under this section violated a condition established under subsection (a)(3); or
- (2) the period during which the conditions established under subsection (a)(3) were in effect expired before the individual successfully completed each condition established by the problem solving court;

the problem solving court may terminate the individual's participation in the problem solving court program.

(c) When an individual's participation in a problem solving court program has been terminated under subsection (b), the problem solving court shall:

- (1) enter a judgment of conviction against the individual;
- (2) refer the individual's case back to the court that referred the case to the problem solving court to allow the referring court to enter a judgment of conviction against the individual; or
- (3) otherwise dispose of the case.

(d) If an individual fulfills the conditions established by a problem solving court under subsection (a), the problem solving court shall:

- (1) dismiss the charges against the individual;
- (2) refer the individual's case back to the court that referred the case to the problem solving court to allow the referring court to dismiss the charges against the individual; or
- (3) otherwise dispose of the case.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-15

Individuals with nonsuspendible sentences

Sec. 15. (a) A problem solving court may place an individual in a problem solving court program under this section only if:

- (1) the individual is convicted of an offense that is

nonsuspendible and the individual meets the conditions for eligibility set forth in section 13(1) and 13(2) of this chapter; and

(2) the judge of the problem solving court and the individual agree upon the conditions for the individual's participation in the problem solving court program.

(b) If the requirements of subsection (a) are met in the case of an individual, the court may:

(1) order the execution of the individual's nonsuspendible sentence and stay execution of all or part of the nonsuspendible part of the individual's sentence pending the individual's successful completion of a problem solving court program; and

(2) suspend all or part of the suspendible part of the individual's nonsuspendible sentence, place the individual on probation for the suspended part of the sentence, and require as a condition of probation that the person successfully complete a problem solving court program.

(c) If an individual fails to successfully complete and has been terminated from a problem solving court program under this section, the problem solving court may:

(1) if the person is serving the nonsuspendible part of the person's sentence:

(A) lift the stay of execution of the nonsuspendible part of the individual's sentence and order the individual to serve all or a part of the nonsuspendible sentence; or

(B) otherwise dispose of the case; or

(2) if the individual is serving the suspendible part of the individual's sentence:

(A) order all or a part of the individual's suspendible sentence to be executed; or

(B) otherwise dispose of the case.

(d) If an individual successfully completes a problem solving court program under this section, the problem solving court may:

(1) waive execution of the nonsuspendible part of the individual's sentence; or

(2) otherwise dispose of the case.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-16

Certification of problem solving courts; personnel certification

Sec. 16. (a) As used in this section, "effective date" means the date established by the board after which minimum employment qualifications are required for persons employed by a problem solving court program.

(b) A program established under this chapter is subject to the regulatory powers of the Indiana judicial center established under IC 33-38-9.

(c) The board:

(1) shall adopt rules establishing requirements and procedures for:

- (A) initial certification;
 - (B) recertification; and
 - (C) decertification;
- of problem solving courts; and
- (2) may adopt rules concerning educational and occupational qualifications for problem solving court employees.
- (d) If the board adopts qualifications for the employees of problem solving courts under subsection (c)(2):
- (1) the board shall establish an effective date after which a person employed by a problem solving court must meet the qualifications; and
 - (2) the qualifications do not apply to a person who is employed:
 - (A) by a certified problem solving court before the effective date; or
 - (B) as administrative personnel.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-17

Duties of the Indiana judicial center

Sec. 17. The Indiana judicial center shall:

- (1) ensure that problem solving courts comply with the rules adopted under this chapter and applicable federal regulations;
- (2) certify problem solving courts according to the requirements and procedures established under section 16(c)(1) of this chapter; and
- (3) require, as a condition of operation, that each problem solving court created or funded under this chapter be certified according to the rules adopted by the board.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-18

Authority of the Indiana judicial center to revoke the certification of a problem solving court; implementation authority

Sec. 18. The Indiana judicial center may:

- (1) revoke the certification of a problem solving court if the Indiana judicial center determines that the problem solving court does not comply with rules adopted under this chapter and applicable federal regulations; and
 - (2) enter into agreements or contracts with:
 - (A) another department, authority, or agency of the state;
 - (B) another state;
 - (C) the federal government;
 - (D) a state educational institution or private postsecondary educational institution; or
 - (E) a public or private agency;
- to implement this chapter.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-19

Petition to establish a problem solving court

Sec. 19. (a) A court shall notify the Indiana judicial center of the court's intention to establish a problem solving court during the planning for the establishment of the problem solving court.

(b) A court seeking to establish a problem solving court must submit a petition for approval to the Indiana judicial center in accordance with rules adopted by the board.

(c) A problem solving court may not:

(1) assess fees; or

(2) collect fees;

until the problem solving court is certified by the Indiana judicial center.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-20

Services provided by a problem solving court

Sec. 20. (a) A problem solving court may provide the following services to individuals participating in problem solving court programs:

(1) Screening for eligibility and other appropriate services.

(2) Assessment.

(3) Education.

(4) Referral.

(5) Service coordination and case management.

(6) Supervision.

(7) Judicial involvement.

(8) Program evaluation.

(b) A problem solving court may not provide direct treatment or rehabilitation services unless:

(1) the problem solving court is certified by the division of mental health and addiction under IC 12-23-1-6;

(2) the problem solving court uses licensed medical professionals who provide mental health treatment to individuals with psychiatric disorders; and

(3) the court that establishes the problem solving court determines that existing community resources are inadequate to respond satisfactorily to the demand for services from the court.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-21

Powers of a problem solving court

Sec. 21. A court may take steps necessary to carry out the functions of the problem solving court, including the following:

(1) Hiring employees as needed to perform the required functions of the problem solving court.

(2) Establishing policies and procedures for the problem solving court.

(3) Adopting local court rules as necessary for the problem solving court.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-22

Funding of problem solving courts

Sec. 22. (a) The costs of a problem solving court may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under IC 33-37-8.

(b) A problem solving court may apply for and receive the following:

- (1) Gifts, bequests, and donations from private sources.
- (2) Grants and contract money from governmental sources.
- (3) Other forms of financial assistance approved by the court to supplement the problem solving court's budget.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-23

Fees

Sec. 23. (a) The board shall adopt rules establishing a range of fees that may be assessed to an eligible individual to receive problem solving court services under this chapter.

(b) A court that has established a problem solving court under this chapter may require eligible individuals to pay a fee for problem solving court services.

(c) If a fee is required under subsection (b), the court shall adopt by local court rule a schedule of fees, consistent with the rules adopted by the board under subsection (a), to be assessed for problem solving court services.

(d) The clerk of the court shall collect fees under this section. The clerk shall transmit the fees within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-37-8.

(e) Fees collected under this section must be used only to fund problem solving court services under this chapter.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-24

Chemical testing; expenses

Sec. 24. (a) A problem solving court may require an individual participating in a problem solving court program to undergo chemical testing.

(b) An individual may be liable for the cost of any or all chemical tests required by the problem solving court under subsection (a), including:

- (1) laboratory expenses; and
- (2) problem solving court expenses.

(c) A laboratory that performs a chemical test as ordered by a problem solving court under subsection (a) shall report the results to the problem solving court.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-25

Problem solving court fund

Sec. 25. (a) The Indiana judicial center problem solving court fund is established for the purpose of administering, certifying, and supporting problem solving court programs under this chapter. The fund shall be administered by the Indiana judicial center.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-26

No right to participate in a problem solving court program

Sec. 26. An individual does not have a right to participate in a problem solving court program under this chapter.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-27

Staff immunity

Sec. 27. The coordinator and members of the professional and administrative staff of a problem solving court who perform duties in good faith under this chapter are immune from civil liability for:

- (1) acts or omissions in providing services under this chapter; and
- (2) the reasonable exercise of discretion in determining eligibility to participate in a problem solving court program.

As added by P.L.108-2010, SEC.4.