

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 84

AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 11-13-3-4, AS AMENDED BY SEA 246-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the

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parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex and violent offender (as defined in IC 5-2-12-4) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is an offender (as defined in IC 5-2-12-4) to register with a sheriff (or the police chief of a consolidated city) under IC 5-2-12-5;

(B) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole; and

(C) prohibit a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the offender's sex offense.

(h) The address of the victim of a parolee who is an offender

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convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

SECTION 2. IC 12-23-14.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-38-9-3.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards will be required for a person employed by a drug court.

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

(d) With regard to drug courts established under this chapter, the Indiana judicial center may do the following:

- (1) Ensure that drug courts comply with rules adopted under this section and applicable federal regulations.
- (2) Certify drug courts established under this chapter.
- (3) Revoke the certification of a drug court upon a determination that the drug court does not comply with rules adopted under this section and applicable federal regulations.
- (4) Make agreements and contracts with:
 - (A) another department, authority, or agency of the state;
 - (B) another state;
 - (C) the federal government;
 - (D) a state supported or private university; or
 - (E) a public or private agency;
 to implement this chapter.
- (5) Require as a condition of operation that each drug court created or funded under this chapter be certified according to rules established by the Indiana judicial center.
- (6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of drug courts.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by a drug court; however, any contract service provider must be licensed by the state or approved by the judicial center. If the board adopts qualifications under this subsection:

- (1) the board shall establish an effective date after which a person employed by a drug court must meet the minimum qualifications

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adopted under this subsection; and

(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

- (A) by a certified drug court before the effective date; or
- (B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to ~~the court alcohol and drug program advisory a committee or of the Indiana judicial center.~~ **conference of Indiana.**

SECTION 3. IC 33-23-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 14. Reentry Courts

Sec. 1. A court having felony, misdemeanor, or juvenile jurisdiction in a city or county may establish a reentry court under the court's operation.

Sec. 2. A court establishing a reentry court under this chapter may do the following:

- (1) Establish uniform rules.
- (2) Make special orders and rules as necessary.

Sec. 3. (a) A reentry court established under this chapter and accompanying services are open only to individuals over whom the reentry court has jurisdiction.

(b) A reentry court has jurisdiction over an individual who:

- (1) resides in the county in which the reentry court is located; and
- (2) has been released from the custody of the department of correction:
 - (A) on probation;
 - (B) on parole;
 - (C) as part of a community transition program under IC 11-10-11.5; or
 - (D) to a community corrections program as part of a sentence reduction or sentence modification under IC 35-38-1-17.

(c) A reentry court having jurisdiction over an individual loses jurisdiction over the individual:

- (1) when the individual's participation in a community transition program ends, unless the individual is required to serve an additional period on probation, parole, or community corrections;
- (2) when the individual's period of probation, parole, or community corrections expires; or

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(3) if the individual's probation, parole, or community corrections placement is revoked and the individual is returned to the custody of the department of correction.

(d) A reentry court does not have jurisdiction over an individual who has been released from the department of correction after serving the individual's entire sentence.

Sec. 4. (a) A reentry court established under this chapter 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.

(b) A reentry court that is authorized under section 5 of this chapter may also provide direct treatment and rehabilitation services, including the following:

- (1) Counseling.
- (2) Rehabilitative care.

Sec. 5. A reentry court established under this chapter may not provide direct treatment or rehabilitation services unless:

- (1) the reentry court is certified by the division of mental health and addiction; and
- (2) the court that established the reentry court determines that existing community resources are inadequate to respond satisfactorily to the demand for the services from the court.

Sec. 6. (a) Except as provided in subsection (c), a court shall notify the Indiana judicial center during the planning stages of the court's intention to establish a reentry court.

(b) Before a reentry court may begin operation, the court must obtain a written statement from the Indiana judicial center approving the operation of the reentry court.

(c) A reentry court in operation before July 1, 2006, may continue to operate pending certification if the reentry court does the following:

- (1) Before October 2, 2006, notifies the Indiana judicial center of the date the reentry court began operation.
- (2) Follows procedures for certification as provided in rules adopted under section 9(e) of this chapter, including submission of an application for certification as required by the rules.

Sec. 7. In addition to satisfying the requirements of section 6 of

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this chapter, a court seeking to establish a reentry court must submit a petition for approval of the reentry court. The petition must contain the following:

- (1) A full description of a proposed reentry court.
- (2) Evidence that the court has considered:
 - (A) how to best use community based services; and
 - (B) the role that community based services will play in the development and implementation of the reentry court.
- (3) A proposed budget for the reentry court.
- (4) Details on the implementation of the reentry court.

Sec. 8. A court may take steps necessary to carry out the functions of the reentry court, including hiring employees as needed to perform the required functions of the reentry court.

Sec. 9. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-38-9-4.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards are required for a person employed by a reentry court.

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

(d) With regard to reentry courts established under this chapter, the Indiana judicial center may do the following:

- (1) Ensure that reentry courts comply with rules adopted under this section.
- (2) Certify reentry courts established under this chapter.
- (3) Revoke the certification of a reentry court upon a determination that the reentry court does not comply with rules adopted under this section.
- (4) Make agreements and contracts with:
 - (A) another department, authority, or agency of the state;
 - (B) another state;
 - (C) the federal government;
 - (D) a state supported or private university; or
 - (E) a public or private agency;

to implement this chapter.

(5) Require as a condition of operation that each reentry court created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification,

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recertification, and decertification of reentry courts.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by a reentry court. However, a contract service provider must be licensed by the state or approved by the Indiana judicial center. If the board adopts qualifications under this subsection:

- (1) the board shall establish an effective date after which a person employed by a reentry court must meet the qualifications adopted under this subsection; and
- (2) the qualifications adopted under this subsection do not apply to a person who is employed:
 - (A) by a certified reentry court before the effective date; or
 - (B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to a committee of the judicial conference of Indiana.

Sec. 10. (a) The funds for a reentry court established under this chapter may, at the discretion of the fiscal body of the unit for which the reentry court is established, 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) Subject to the approval of the county fiscal body, the court shall fix the compensation of employees of the reentry court.

Sec. 11. A reentry court may apply for and receive the following:

- (1) Gifts, bequests, and donations from private sources.
- (2) Grant and contract money from governmental sources, including:
 - (A) the department of correction;
 - (B) a community corrections program; and
 - (C) a community transition program.
- (3) Other forms of financial assistance approved by the court to supplement the court's budget.

Sec. 12. (a) A court that establishes a reentry court under this chapter may require an eligible individual to pay a fee for reentry court services.

(b) If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for reentry court services.

(c) The fee for reentry court services may not exceed the reasonable expenses for direct services to an individual incurred in providing reintegration services to an individual under the

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supervision of a reentry court. The fee for reentry court services may be assessed in installments.

(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 county auditor or fiscal officer in the appropriate user fee fund established under IC 33-37-8.

Sec. 13. (a) A reentry court established under this chapter may require an individual to:

- (1) undergo a chemical test or a series of chemical tests as specified by the court; and
- (2) submit to random employment and residence checks.

An individual who tests positive on a chemical test, or whose sample is determined to have been adulterated, is liable for the costs of the chemical test required under this section, regardless of whether the costs are paid to the court or the laboratory.

(b) A laboratory that performs a chemical test under this section shall report the results of each test to the court.

Sec. 14. (a) An individual does not have a right to participate in a reentry court under this chapter.

(b) The coordinator and members of the professional and administrative staff of a reentry 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 the reentry court.

SECTION 4. IC 33-37-5-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 29. (a) This section applies to a person receiving services from a reentry court under IC 33-23-14.

(b) The clerk shall collect a reentry court fee if payment of the fee is ordered by a court under IC 33-23-14-12.

SECTION 5. IC 33-37-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A city or town user fee fund is established in each city or town having a city or town court for the purpose of supplementing the cost of various program services. The city or town fund is administered by the fiscal officer of the city or town.

(b) The city or town fund consists of the following fees collected by a clerk under this article:

- (1) The pretrial diversion program fee.
- (2) The alcohol and drug services fee.

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- (3) The law enforcement continuing education program fee.
- (4) The deferral program fee.
- (5) The drug court fee.

(6) The reentry court fee.

SECTION 6. IC 33-37-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A county user fee fund is established in each county to finance various program services. The county fund is administered by the county auditor.

(b) The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under IC 31-34-8-8 or IC 31-37-9-9:

- (1) The pretrial diversion program fee.
- (2) The informal adjustment program fee.
- (3) The marijuana eradication program fee.
- (4) The alcohol and drug services program fee.
- (5) The law enforcement continuing education program fee.
- (6) The deferral program fee.
- (7) The jury fee.
- (8) The drug court fee.

(9) The reentry court fee.

(c) All of the jury fee and two dollars (\$2) of a deferral program fee collected under IC 33-37-4-2(e) shall be deposited by the county auditor in the jury pay fund established under IC 33-37-11.

SECTION 7. IC 33-38-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. The Indiana judicial center shall administer **the following:**

- (1) The alcohol and drug services program under IC 12-23-14 and the certification of drug courts under IC 12-23-14.5.
- (2) **The certification of reentry courts under IC 33-23-14.**

SECTION 8. IC 34-30-2-140.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 140.5. IC 33-23-14-14 (Concerning certain persons employed by a reentry court).**

SECTION 9. IC 35-38-2-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

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- (3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
- (4) Support the person's dependents and meet other family responsibilities.
- (5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.
- (6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
- (7) Pay a fine authorized by IC 35-50.
- (8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.
- (9) Report to a probation officer at reasonable times as directed by the court or the probation officer.
- (10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
- (11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
- (12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
- (13) Perform uncompensated work that benefits the community.
- (14) Satisfy other conditions reasonably related to the person's rehabilitation.
- (15) Undergo home detention under IC 35-38-2.5.
- (16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:
 - (A) the person had been convicted of a sex crime listed in IC 35-38-1-7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in IC 35-38-1-7.1(b)(8); or
 - (B) the person had been convicted of an offense related to a controlled substance listed in IC 35-38-1-7.1(f) and the offense

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involved the conditions described in IC 35-38-1-7.1(b)(9)(A).
 (17) Refrain from any direct or indirect contact with an individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(22) Participate in a reentry court program.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

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(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

- (1) the term of imprisonment;
- (2) the days or parts of days during which a person is to be confined; and
- (3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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