



January 24, 2020

SENATE BILL No. 302

DIGEST OF SB 302 (Updated January 21, 2020 1:39 pm - DI 106)

Citations Affected: IC 35-33.

Synopsis: Indigency determinations. Establishes a procedure for a criminal court to use in determining if a defendant is indigent. Provides that, if a court has ordered a defendant to pay part of the cost of representation, the court shall inquire at sentencing whether the defendant has paid the required amount. Specifies that a court may prorate fines, fees, and court costs based on the person's reasonable ability to pay. (The introduced version of this bill was prepared by the interim study committee on corrections and criminal code.)

Effective: July 1, 2020.

**Tallian, Randolph Lonnie M,
Young M, Freeman, Glick**

January 9, 2020, read first time and referred to Committee on Corrections and Criminal Law.
January 23, 2020, amended, reported favorably — Do Pass.

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January 24, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 302

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

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

- 1 SECTION 1. IC 35-33-7-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) Prior to the
3 completion of the initial hearing, the judicial officer shall determine
4 whether a person who requests assigned counsel is indigent **under**
5 **section 6.5 of this chapter**. If the person is found to be indigent, the
6 judicial officer shall assign counsel to the person.
7 (b) If jurisdiction over an indigent defendant is transferred to
8 another court, the receiving court shall assign counsel immediately
9 upon acquiring jurisdiction over the defendant.
10 (c) If the court finds that the person is able to pay part of the cost of
11 representation by the assigned counsel, the court shall order the person
12 to pay the following:
13 (1) For a felony action, a fee of one hundred dollars (\$100).
14 (2) For a misdemeanor action, a fee of fifty dollars (\$50).
15 **If the court orders the person to pay an amount described in**
16 **subdivision (1) or (2), the court shall inquire at sentencing whether**
17 **the person has paid the required amount.** The clerk of the court shall

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1 deposit fees collected under this subsection in the county's
 2 supplemental public defender services fund established under
 3 IC 33-40-3-1.

4 (d) The court may review the finding of indigency at any time
 5 during the proceedings if:

6 **(1) the court receives evidence of a material change in the**
 7 **person's income or assets; or**

8 **(2) the person has failed to provide the court with sufficient**
 9 **evidence, including documentary evidence, to sustain the**
 10 **court's initial indigency determination.**

11 SECTION 2. IC 35-33-7-6.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2020]: **Sec. 6.5. (a) In determining whether a person is indigent,**
 14 **the court shall consider the following:**

15 **(1) The person's assets.**

16 **(2) The person's income.**

17 **(3) The person's necessary expenses.**

18 **(b) The court may consider that a person's eligibility for:**

19 **(1) the federal Supplemental Nutrition Assistance Program**
 20 **(SNAP) (except for 21 U.S.C. 862a(a));**

21 **(2) the federal and Indiana TANF (Temporary Assistance for**
 22 **Needy Families) program (except for 21 U.S.C. 862a(a)); or**

23 **(3) another need based public assistance program;**

24 **constitutes sufficient evidence to establish that a person is indigent.**

25 **(c) The court may issue an initial indigency determination**
 26 **pending receipt of documentary or other evidence from the person**
 27 **concerning the person's income, assets, expenses, or welfare**
 28 **eligibility.**

29 **(d) If the court finds that the person is able to pay some of the**
 30 **finest, fees, and court costs, the court may prorate the person's fine,**
 31 **fee, and court costs, and require the person to pay an amount that**
 32 **the person can reasonably afford.**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 302, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 15, delete "The" and insert "**If the court orders the person to pay an amount described in subdivision (1) or (2), the court shall inquire at sentencing whether the person has paid the required amount.** The".

Page 2, delete lines 26 through 42, begin a new paragraph and insert:

"(d) If the court finds that the person is able to pay some of the fines, fees, and court costs, the court may prorate the person's fine, fee, and court costs, and require the person to pay an amount that the person can reasonably afford."

Delete pages 3 through 5.

and when so amended that said bill do pass.

(Reference is to SB 302 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 0.

