

IC 33-32

ARTICLE 32. CIRCUIT COURT CLERKS

IC 33-32-1

Chapter 1. Definitions

IC 33-32-1-1

"Clerk" defined

Sec. 1. As used in this article, "clerk" means a clerk of the circuit court elected and qualified under Article 6, Sections 2 and 4 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.11.

IC 33-32-2

Chapter 2. General Powers and Duties

IC 33-32-2-1

Clerks in counties with multiple courts

Sec. 1. In a county having one (1) or more superior courts or a county, municipal, or probate court, the clerk shall serve as clerk of the superior, county, and probate court as well as clerk of the circuit court.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-2

Election; term

Sec. 2. A clerk of the circuit court shall be elected under IC 3-10-2-13 by the voters of each county. The term of office of a clerk is four (4) years, continuing until a successor is elected and qualified.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-3

Bond

Sec. 3. In the manner prescribed by IC 5-4-1, the clerk of each county shall execute a bond conditioned upon:

- (1) the faithful discharge of the duties of the clerk's office; and
- (2) the proper payment of all money received by the office of the clerk.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-4

Clerk's office

Sec. 4. (a) The board of county commissioners shall provide the clerk with an office at the county seat in a building provided for that purpose.

(b) The clerk shall keep the office open on every day of the year except on Sundays and legal holidays. However, the clerk:

- (1) shall keep the office of the clerk open on those days and times necessary for the proper administration of the election statutes; and
- (2) may close the office on those days that the judge of the circuit court orders the court closed in accordance with the custom and practice of the county.

(c) Any legal action required to be taken in the office of the clerk during the time the office is closed under this section may be taken on the next following day the office is open.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-5

Administering of oaths

Sec. 5. A clerk may administer all oaths.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-6

Duties concerning elections

Sec. 6. A clerk shall carry out the duties prescribed for a clerk in IC 3 concerning elections.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-7

Table of fees

Sec. 7. A clerk shall post in a conspicuous place in the clerk's office a table of the clerk's fees. If a clerk fails to post a table of fees, a clerk may not demand or receive fees for services rendered.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-8

Purchase of judgment, decree, or allowance prohibited

Sec. 8. The clerk may not become the purchaser of any judgment, decree, or allowance of any court of which the clerk is an officer. All these purchases are void as to the purchaser.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-9

Required training courses

Sec. 9. (a) As used in this section, "training courses" refers to training courses related to the office of circuit court clerk that are compiled or developed by the Association of Indiana Counties and approved by the state board of accounts.

(b) An individual elected to the office of circuit court clerk after November 2, 2010, shall complete at least:

(1) fifteen (15) hours of training courses within one (1) year; and

(2) forty (40) hours of training courses within three (3) years; after the individual is elected to the office of circuit court clerk.

(c) A training course that an individual completes:

(1) after being elected to the office of circuit court clerk; and

(2) before the individual begins serving in the office of circuit court clerk;

shall be counted toward the requirements under subsection (b).

(d) An individual shall fulfill the training requirements established by subsection (b) for each term to which the individual is elected as circuit court clerk.

(e) This subsection applies only to an individual appointed to fill a vacancy in the office of circuit court clerk. An individual described in this subsection may, but is not required to, take training courses required by subsection (b). If an individual described in this subsection takes a training course required by subsection (b) for an elected circuit court clerk, the county shall pay for the training course as if the individual had been an elected circuit court clerk.

As added by P.L.45-2010, SEC.1. Amended by P.L.279-2013, SEC.1.

IC 33-32-2-9.2

Personal liability of clerk

Sec. 9.2. (a) A clerk is not personally liable for any act or omission occurring in connection with the performance of the clerk's official duties, unless the act or omission constitutes gross negligence or an intentional disregard of the responsibilities of the office of clerk.

(b) The fact that a clerk is not personally liable under subsection (a) does not preclude an action against the clerk's bond based on an error or omission committed by the clerk.

As added by P.L.60-2010, SEC.2.

IC 33-32-2-10**Use of registered or certified mail**

Sec. 10. (a) This section applies whenever the clerk is required to send by registered or certified mail a document filed with a court.

(b) The initial mailing of the document by registered or certified mail sent:

(1) to each party who is required to receive the mailing; and

(2) to only one (1) of the party's addresses;

shall be paid out of court costs and fees collected under IC 33-37.

(c) If a person requests the clerk to send a mailing by registered or certified mail after the initial mailing described in subsection (b), the person shall pay the cost of the mailing.

(d) In a county where court postage costs are paid by the clerk's office, the amount collected by the clerk for additional mailings by registered or certified mail shall be deposited into the clerk's record perpetuation fund established under IC 33-37-5-2. In a county where court postage costs are paid out of the county general fund, the amount collected by the clerk for additional mailings by registered or certified mail shall be returned to the county general fund.

As added by P.L.78-2014, SEC.6.

IC 33-32-3

Chapter 3. Record Keeping Duties

IC 33-32-3-1

Duties

Sec. 1. (a) The clerk shall endorse the time of filing on each writing required to be filed in the office of the clerk.

(b) The clerk shall carefully preserve in the office of the clerk all records and writings pertaining to the clerk's official duties.

(c) The clerk shall procure, at the expense of the county, all necessary judges' appearance, bar, judgment, and execution dockets, order books, and final record books.

(d) The clerk shall enter in proper record books all orders, judgments, and decrees of the court.

(e) Not more than fifteen (15) days after the cases are finally determined, the clerk shall enter in final record books a complete record of:

- (1) all cases involving the title to land;
- (2) all criminal cases in which the punishment is death or imprisonment, except where a nolle prosequi is entered or an acquittal is had; and
- (3) all other cases, at the request of either party and upon payment of the costs.

As added by P.L. 98-2004, SEC. 11. Amended by P.L. 78-2014, SEC. 7.

IC 33-32-3-2

Circuit court judgment docket

Sec. 2. (a) The clerk:

- (1) shall keep a circuit court judgment docket; and
- (2) is the official keeper of the circuit court judgment docket.

(b) A judgment docket:

- (1) must contain:
 - (A) all civil judgments in which one (1) party owes money to another party, including any court costs awarded to a judgment creditor; and
 - (B) any entry that is required by a statute; and

- (2) may not include:
 - (A) judgments in which money is owed by a person to a state, a county, or another governmental entity as a result of:
 - (i) a criminal conviction; or
 - (ii) a violation of an infraction or ordinance; or
 - (B) except for cases in which the state obtains a judgment for unpaid taxes, judgments in which a governmental entity is the sole creditor.

(c) The clerk may keep a judgment docket in:

- (1) an electronic format;
- (2) a paper format; or
- (3) both an electronic and a paper format.

(d) Upon the filing in the office of the clerk a statement or transcript of any judgment for the recovery of money or costs, the

clerk shall enter, and index in alphabetical order, in this judgment docket a statement of the judgment showing the following:

- (1) The names of all the parties.
- (2) The name of the court.
- (3) The number of the cause.
- (4) The book and page of the record in which the judgment is recorded.
- (5) The date the judgment is entered and indexed.
- (6) The date of the rendition of judgment.
- (7) The amount of the judgment and the amount of costs.

(e) If a judgment is against several persons, the statement required to be entered under subsection (d) shall be repeated under the name of each judgment debtor in alphabetical order.

(f) A person interested in any judgment for money or costs that has been rendered by any state court, or by any federal court of general original jurisdiction sitting in Indiana, may have the judgment entered upon the circuit court judgment docket by filing with the clerk:

- (1) a verified statement setting forth the facts required under subsection (d); or
- (2) a verified copy of the judgment certified under the seal of the court that rendered the judgment.

(g) The judgment docket shall be made available for public inspection at the office of the clerk during regular office hours. If a judgment docket is kept in an electronic format:

- (1) the judgment docket must be searchable; and
- (2) a member of the public must be able to:
 - (A) search the judgment docket for the name of a specific party; and
 - (B) obtain a list of all judgments in the judgment docket concerning the party.

(h) If the wages of a judgment debtor are being garnished, a clerk is not required to notify the employer of the judgment debtor to suspend the garnishment after the judgment is satisfied. A request to suspend the garnishment must be submitted by the judgment debtor to the court that rendered the judgment. The clerk is not required to take any action under this subsection concerning a garnishment other than to obey the orders of the court that rendered the judgment.

As added by P.L.98-2004, SEC.11. Amended by P.L.78-2014, SEC.8.

IC 33-32-3-3

Circuit court judgment docket; public record

Sec. 3. The circuit court judgment docket is a public record that is open during the usual hours of transacting business for examination by any person.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-4

Entering judgments and releases

Sec. 4. A clerk shall:

- (1) enter a judgment or recognizance not more than fifteen (15) days after its rendition; or
- (2) cause a release of judgment to be entered on the judgment docket not more than fifteen (15) days after satisfaction of the judgment.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-5

Execution docket

Sec. 5. (a) The clerk shall keep an execution docket.

(b) The clerk shall enter all executions on the execution docket as they are issued by the clerk, specifying in proper columns the following information:

- (1) The names of the parties.
- (2) The amount of the judgment and the interest due upon the issuing of the execution.
- (3) The costs.

The clerk shall also prepare an additional column in which the clerk shall enter the return of the sheriff.

(c) The execution docket entries may be inspected and copied under IC 5-14-3-3.

(d) The clerk may keep an execution docket:

- (1) in hard copy form; or
- (2) in electronic form, if all information in the execution docket is available to the public to inspect or copy in the electronic form.

As added by P.L.98-2004, SEC.11. Amended by P.L.78-2014, SEC.9.

IC 33-32-3-6

Monthly reports; certified copies; forms

Sec. 6. (a) Before the twenty-fifth day of each month, the clerk shall prepare a report showing as of the close of business on the last day of the preceding month the following information:

- (1) The balance, if any, of fees payable to the county.
- (2) Fees collected for fish and game licenses.
- (3) Trust funds held, including payments collected for support.
- (4) The total of the balances of all fees and funds.
- (5) The record balance of money in each depository at the end of the month.
- (6) The cash in the office at the close of the last day of the month.
- (7) Any other items for which the clerk of the circuit court is entitled to credit.
- (8) The total amount of cash in each depository at the close of business on the last day of the month.
- (9) The total of checks issued against each depository that are outstanding at the end of the month and unpaid by the depositories.

(b) The clerk shall:

- (1) retain one (1) copy as a public record of the clerk's office;

and

- (2) file three (3) copies with the county auditor, who shall:
 - (A) present one (1) copy to the board of commissioners of the county at its next regular meeting; and
 - (B) transmit one (1) copy to the state board of accounts.

Each copy of the report must be verified by the certification of the clerk. The clerk shall file the original with the county auditor, who shall file it with the records of the county board of finance.

(c) The state board of accounts shall prescribe forms for the clerk's monthly reports.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-7

Register of fees

Sec. 7. (a) The clerk shall keep a register of witness fees and other court fees.

(b) When the clerk receives money in payment of court fees or fees for a witness or any other person, the clerk shall make an entry into the register recording the receipt of the payment.

(c) The register must contain the following information:

- (1) The names, in alphabetical order, of persons for whom payment has been received.
- (2) The cause for which the fee is paid.
- (3) In which fee book and on which page the fee is taxed.
- (4) The amount paid.
- (5) When the fee was paid in and when it was paid out.

(d) The register must be available for inspection at all times. The clerk may keep the register:

- (1) in hard copy form, in a conspicuous place in the clerk's office; or
- (2) in electronic form, if all information in the register is available to the public to inspect or copy in the electronic form.

As added by P.L.98-2004, SEC.11. Amended by P.L.78-2014, SEC.10.

IC 33-32-3-8

Delivery of records, books, and papers to successor

Sec. 8. At the end of the clerk's term, the clerk shall deliver to the clerk's successor all the records, books, and papers belonging to the clerk's office.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-9

Appropriation for blank books and stationery

Sec. 9. The county council shall appropriate reasonable sums to the clerk for necessary blank books and stationery.

As added by P.L.98-2004, SEC.11.

IC 33-32-4

Chapter 4. Child Support Payments

IC 33-32-4-1

"Electronic funds transfer" defined

Sec. 1. As used in this chapter, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, a telephone, or a computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-2

"Indiana support enforcement tracking system (ISETS)"

Sec. 2. (a) As used in this chapter, "Indiana support enforcement tracking system (ISETS)" refers to the statewide automated system for the collection, disbursement, and distribution of child support payments established by the department of child services.

(b) As used in this chapter, "successor statewide automated support enforcement system" means a statewide automated system for the collection, disbursement, and distribution of child support payments established by the department of child services.

As added by P.L.98-2004, SEC.11. Amended by P.L.145-2006, SEC.365; P.L.128-2012, SEC.177.

IC 33-32-4-2.5

ISETS is the official record of child support payments

Sec. 2.5. The Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system is the official record of the collection, disbursement, and distribution of child support payments as required under 42 U.S.C. 654.

As added by P.L.128-2012, SEC.178.

IC 33-32-4-3

Receipt of funds

Sec. 3. The clerk may receive funds:

- (1) in payment of judgments; and
- (2) ordered to be paid into the court by the judge.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-4

Clerk's liability

Sec. 4. Except as provided in sections 5 and 8 of this chapter, the clerk is liable, with the clerk's sureties, on the clerk's official bond for all funds received to any person who is entitled to demand and receive those funds from the clerk.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-5

State central collection unit and clerk not liable

Sec. 5. The state central collection unit is not liable and the clerk is not personally liable or liable in the clerk's official capacity on the clerk's official bond for funds received if the state central collection unit or the clerk:

- (1) through error or in accordance with the best information available to the state central collection unit or the clerk, disbursed the funds to a person the state central collection unit or the clerk reasonably believed to be entitled to receive the funds and to comply with a:
 - (A) child support order; or
 - (B) garnishment order;
- (2) inappropriately disbursed or misapplied child support funds, arising without the knowledge or approval of the state central collection unit or the clerk, that resulted from:
 - (A) an action by an employee of, or a consultant to, the department of child services or the Title IV-D agency;
 - (B) an ISETS or the successor statewide automated support enforcement system technological error; or
 - (C) information generated by ISETS or the successor statewide automated support enforcement system;
- (3) disbursed funds that the state central collection unit or the clerk reasonably believed were available for disbursement but that were not actually available for disbursement;
- (4) disbursed child support funds paid to the central collection unit by a personal check that was later dishonored by a financial institution; and
- (5) did not commit a criminal offense as a part of the disbursement.

As added by P.L.98-2004, SEC.11. Amended by P.L.145-2006, SEC.366; P.L.148-2006, SEC.31; P.L.128-2012, SEC.179.

IC 33-32-4-6

Improper disbursement of funds

Sec. 6. If the state central collection unit or the clerk improperly disburses funds in the manner described by section 5 of this chapter, the state central collection unit or the clerk shall do the following:

- (1) Deduct the amount of funds improperly disbursed from fees collected under IC 33-37-5-6.
- (2) Credit each account from which funds were improperly disbursed with the amount of funds improperly disbursed under section 5 of this chapter.
- (3) Notify the prosecuting attorney of the county of:
 - (A) the amount of the improper disbursement;
 - (B) the person from whom the amount of the improper disbursement should be collected; and
 - (C) any other information to assist the prosecuting attorney to collect the amount of the improper disbursement.
- (4) Record each action taken under this subsection on a form

prescribed by the state board of accounts.
As added by P.L.98-2004, SEC.11. Amended by P.L.148-2006, SEC.32.

IC 33-32-4-7

Reimbursement

Sec. 7. If:

(1) fees collected under IC 33-37-5-6 are credited to an account under section 6(2) of this chapter because a check or money order was dishonored by a financial institution or was the subject of a stop payment order; and

(2) a person subsequently pays to the clerk all or part of the amount of the check or money order that was dishonored or the subject of a stop payment order;

the clerk must reimburse the account containing fees collected under IC 33-37-5-6 using the amount the person paid to the clerk.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-8

Dishonored checks

Sec. 8. The clerk is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if:

(1) the check was tendered to the clerk for the payment of a:

(A) fee;

(B) court ordered payment; or

(C) license; and

(2) the acceptance of the check was not an act or omission constituting gross negligence or an intentional disregard of the responsibilities of the office of clerk.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-9

Repealed

(Repealed by P.L.148-2006, SEC.35.)

IC 33-32-5

Chapter 5. Marriage Licenses and Distress Sales

IC 33-32-5-1

Marriage license and certificate fees

Sec. 1. (a) For issuing a marriage license under IC 31-11-4, the clerk shall collect a fee of ten dollars (\$10). The clerk shall pay these fees to the treasurer of state, who shall deposit the money in the state user fee fund established by IC 33-37-9-2.

(b) For issuing a marriage certificate under IC 31-11-4, the clerk shall collect the following fee:

- (1) Eight dollars (\$8), if at least one (1) of the individuals is a resident of Indiana.
- (2) Fifty dollars (\$50), if neither of the individuals is a resident of Indiana.

When collected, these fees shall be deposited in the general fund of the county.

As added by P.L.98-2004, SEC.11.

IC 33-32-5-2

Repealed

(Repealed by P.L.113-2014, SEC.121.)