



March 21, 2003

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**ENGROSSED**  
**SENATE BILL No. 247**

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DIGEST OF SB 247 (Updated March 19, 2003 3:37 PM - DI 105)

**Citations Affected:** IC 12-23; IC 33-10.1.

**Synopsis:** Drug courts. Allows a drug court to accept an eligible individual who is referred from another court located in the same county as the drug court. Removes an incorrect reference concerning adoption of rules in the law that allows the Indiana judicial center to adopt rules concerning drug courts. Provides that, when a person referred to a drug court: (1) has the person's participation in the drug court terminated, the drug court must enter a judgment of conviction against the person or refer the case back to the originating court so that court may enter a judgment of conviction; and (2) fulfills the conditions established by the drug court, the drug court must dismiss the charges against the person or refer the case back to the originating court so that court may dismiss the charges. Requires the judge of the Greenwood city court to be an attorney.

**Effective:** July 1, 2002 (retroactive); upon passage.

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**Wyss, Broden, Zakas**

(HOUSE SPONSORS — WEINZAPFEL, FOLEY)

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January 9, 2003, read first time and referred to Committee on Judiciary.  
February 20, 2003, amended, reported favorably — Do Pass.  
February 24, 2003, read second time, ordered engrossed. Engrossed.  
February 25, 2003, read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

March 4, 2003, read first time and referred to Committee on Courts and Criminal Code.  
March 20, 2003, amended, reported — Do Pass.

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ES 247—LS 6841/DI 69+



March 21, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

## ENGROSSED SENATE BILL No. 247

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A BILL FOR AN ACT to amend the Indiana Code concerning human services.

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

1 SECTION 1. IC 12-23-14.5-3, AS ADDED BY P.L.168-2002,  
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 3. **(a) Except as provided in subsection (b),**  
4 a drug court established under this chapter and accompanying services  
5 are open only to individuals over whom the court that established the  
6 drug court has jurisdiction.

7 **(b) A drug court that does not otherwise have felony jurisdiction**  
8 **may accept an eligible individual who is referred to the drug court**  
9 **from another court within the county if the following criteria are**  
10 **met:**

11 **(1) The drug court returns the case to the court that made the**  
12 **referral for appropriate proceedings when the person has**  
13 **successfully completed drug court or the person's**  
14 **participation in the drug court has been terminated.**

15 **(2) If the drug court is a city or town court, the person**  
16 **selected as judge for the court is required to be an attorney**  
17 **under IC 33-10.1-5-7.**

ES 247—LS 6841/DI 69+



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1 SECTION 2. IC 12-23-14.5-9, AS ADDED BY P.L.168-2002,  
 2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2002 (RETROACTIVE)]: Sec. 9. (a) As used in this section,  
 4 "board" refers to the board of directors of the judicial conference of  
 5 Indiana under IC 33-13-14-2.

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

9 (c) A drug court established under this chapter is subject to the  
 10 regulatory powers of the Indiana judicial center under IC 33-13-14-7.

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

13 (1) Ensure that drug courts comply with rules adopted under this  
 14 section and applicable federal regulations.

15 (2) Certify drug courts established under this chapter.

16 (3) Revoke the certification of a drug court upon a determination  
 17 that the drug court does not comply with rules adopted under this  
 18 section and applicable federal regulations.

19 (4) Make agreements and contracts with:

20 (A) another department, authority, or agency of the state;

21 (B) another state;

22 (C) the federal government;

23 (D) a state supported or private university; or

24 (E) a public or private agency;

25 to implement this chapter.

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

29 (6) Adopt rules ~~under IC 4-22-2~~ to implement this chapter.

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

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

38 (1) the board shall establish an effective date after which a person  
 39 employed by a drug court must meet the minimum qualifications  
 40 adopted under this subsection; and

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

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

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

6 SECTION 3. IC 12-23-14.5-15, AS ADDED BY P.L.168-2002,  
 7 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 UPON PASSAGE]: Sec. 15. (a) A drug court may follow the procedure  
 9 described in this section only if:

- 10 (1) a person pleads guilty to an offense in which the use of  
 11 alcohol or drugs was a contributing factor or material element of  
 12 the offense;  
 13 (2) the court refers the person to a drug court;  
 14 (3) the prosecuting attorney consents to the referral;  
 15 (4) the person who pleads guilty under subdivision (1) consents  
 16 to the referral;  
 17 (5) the person who pleads guilty under subdivision (1) is eligible  
 18 to participate in the drug court under section 14(b) of this chapter  
 19 and the drug court accepts the referral; and  
 20 (6) the person has not had a previous dismissal under this section.

21 (b) Notwithstanding IC 35-38-1-1(a), the court, without entering a  
 22 judgment of conviction, may defer further proceedings and place the  
 23 person in ~~the custody of the a~~ drug court ~~under subject to~~ conditions  
 24 ~~as established by the drug court. determines:~~

25 (c) The **drug court**, the prosecuting attorney, and the participant  
 26 must all agree upon the duration of the conditions established under  
 27 subsection (b).

28 (d) ~~If the drug court determines, after a hearing, may enter a~~  
 29 ~~judgment of conviction if: that:~~

- 30 (1) the person ~~violates~~ **violated** a condition established under  
 31 subsection (b); or  
 32 (2) the period of time that the conditions ~~are established under~~  
 33 **subsection (b) were** in effect ~~expires~~ **expired** before the person  
 34 successfully ~~completes~~ **completed** each condition ~~of custody~~  
 35 **established by the drug court;**

36 **the drug court may terminate the person's participation in the**  
 37 **drug court.**

38 (e) ~~The court shall dismiss the charges against the person if the~~  
 39 **When a person's participation in a drug court has been terminated**  
 40 **by the drug court under subsection (d), the drug court shall:**

- 41 (1) **enter a judgment of conviction against the person; or**  
 42 (2) **refer the case back to the court that referred the case to**

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1           **the drug court to allow the referring court to enter a**  
 2           **judgment of conviction against the person.**  
 3           **(f) When a person fulfills the conditions of the custody established**  
 4           **by a drug court under subsection (b), the drug court shall:**  
 5           **(1) dismiss the charges against the person; or**  
 6           **(2) refer the case back to the court that referred the case to**  
 7           **the drug court to allow the referring court to dismiss the**  
 8           **charges against the person.**  
 9           SECTION 4. IC 33-10.1-5-7, AS AMENDED BY P.L.196-1999,  
 10          SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11          UPON PASSAGE]: Sec. 7. (a) A city court is not a court of record.  
 12          (b) A town court is not a court of record.  
 13          (c) A person selected as judge of the following courts must be an  
 14          attorney in good standing under the requirements of the supreme court:  
 15                  (1) Anderson city court.  
 16                  (2) Avon town court.  
 17                  (3) Brownsburg town court.  
 18                  (4) Carmel city court.  
 19                  (5) A city or town court located in Lake County.  
 20                  (6) Muncie city court.  
 21                  (7) Noblesville city court.  
 22                  (8) Plainfield town court.  
 23                  **(9) Greenwood city court.**  
 24                  **(10) Martinsville city court.**  
 25          SECTION 5. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 247, 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, delete lines 1 through 8.

Page 1, line 15, after "court" insert "**that does not otherwise have felony jurisdiction**".

Page 1, line 15, delete ":".

Page 1, line 16, delete "(1)".

Page 1, line 16, delete "; or" and insert "**to the drug court from another court within the county if the following criteria are met:**

**(1) The drug court returns the case to the court that made the referral for appropriate proceedings when the person has successfully completed drug court or the person's participation in the drug court has been terminated.**

**(2) If the drug court is a city or town court, the person selected as judge for the court is required to be an attorney under IC 33-10.1-5-7."**

Page 1, run in lines 15 through 16.

Page 1, delete line 17.

Page 2, delete lines 1 through 11.

Page 4, between lines 19 and 20, begin a new paragraph and insert: "SECTION 4. IC 33-10.1-5-7, AS AMENDED BY P.L.196-1999, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A city court is not a court of record.

(b) A town court is not a court of record.

(c) A person selected as judge of the following courts must be an attorney in good standing under the requirements of the supreme court:

(1) Anderson city court.

(2) Avon town court.

(3) Brownsburg town court.

(4) Carmel city court.

(5) A city or town court located in Lake County.

(6) Muncie city court.

(7) Noblesville city court.

(8) Plainfield town court.

**(9) Greenwood city court."**

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Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to SB 247 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Zakas be added as coauthor of Engrossed Senate Bill 247.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 247, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 23 and 24, begin a new line block indented and insert:

**"(10) Martinsville city court."**

and when so amended that said bill do pass.

(Reference is to SB 247 as printed February 21, 2003.)

WEINZAPFEL, Chair

Committee Vote: yeas 12, nays 0.

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