

IC 31-15

ARTICLE 15. FAMILY LAW: DISSOLUTION OF MARRIAGE AND LEGAL SEPARATION

IC 31-15-1

Chapter 1. General Provisions

IC 31-15-1-1

Construction and application of article

Sec. 1. This article shall be construed and applied to promote the purposes and policies of this article.

As added by P.L.1-1997, SEC.7.

IC 31-15-1-2

Purposes and policies of article

Sec. 2. The purposes and policies of this article are as follows:

- (1) To abolish the existing grounds for absolute and limited divorce and to provide as the basis for dissolution of marriage:
 - (A) irretrievable breakdown of the marriage;
 - (B) the conviction of either party, subsequent to the marriage, of a felony;
 - (C) impotence existing at the time of the marriage; and
 - (D) incurable insanity of either party for a period of at least two (2) years.
- (2) To provide for the appropriate procedures for the dissolution of marriage.
- (3) To provide for the disposition of property, child support, and child custody.
- (4) To provide for separation agreements.
- (5) To provide for a temporary legal separation.

As added by P.L.1-1997, SEC.7.

IC 31-15-2

Chapter 2. Actions for Dissolution of Marriage

IC 31-15-2-1

Applicability of Indiana Rules of Civil Procedure

Sec. 1. Proceedings under this article must comply with the Indiana Rules of Civil Procedure.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-2

Cause of action established

Sec. 2. A cause of action for dissolution of marriage is established.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-3

Grounds for decree

Sec. 3. Dissolution of marriage shall be decreed upon a finding by a court of one (1) of the following grounds and no other ground:

- (1) Irretrievable breakdown of the marriage.
- (2) The conviction of either of the parties, subsequent to the marriage, of a felony.
- (3) Impotence, existing at the time of the marriage.
- (4) Incurable insanity of either party for a period of at least two (2) years.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-4

Caption

Sec. 4. A proceeding for dissolution of marriage is commenced by the filing of a petition entitled, "In Re the marriage of _____ and _____."

As added by P.L.1-1997, SEC.7.

IC 31-15-2-5

Verified petition; averments; guardian filing petition

Sec. 5. (a) A petition for dissolution of marriage must:

- (1) be verified; and
- (2) set forth the following:
 - (A) The residence of each party and the length of residence in the state and county.
 - (B) The date of the marriage.
 - (C) The date on which the parties separated.
 - (D) The name, age, and address of:
 - (i) any living child less than twenty-one (21) years of age; and
 - (ii) any incapacitated child;of the marriage and whether the wife is pregnant.

(E) The grounds for dissolution of the marriage.

(F) The relief sought.

(G) If a guardian of an incapacitated person is filing the petition for dissolution of marriage on behalf of the incapacitated person, the name and address of the guardian.

(b) If a guardian of an incapacitated person files a petition for dissolution of a marriage on behalf of the incapacitated person, the guardian shall file with the petition a copy of the court order granting authority to petition for dissolution of marriage described in IC 29-3-9-12.2.

As added by P.L.1-1997, SEC.7. Amended by P.L.83-2014, SEC.13.

IC 31-15-2-6

Residence; filing in county of guardian's residence

Sec. 6. (a) At the time of the filing of a petition under section 4 of this chapter, at least one (1) of the parties must have been:

(1) a resident of Indiana; or

(2) stationed at a United States military installation within Indiana;

for six (6) months immediately preceding the filing of the petition.

(b) Except as provided in subsection (c), at the time of the filing of a petition under section 4 of this chapter, at least one (1) of the parties must have been:

(1) a resident of the county; or

(2) stationed at a United States military installation within the county;

where the petition is filed for three (3) months immediately preceding the filing of the petition.

(c) If a court has authorized a guardian to file a petition under section 4 of this chapter on behalf of an incapacitated person under IC 29-3-9-12.2, the guardian may file the petition for dissolution in the guardian's county of residence if the guardian has resided in that county for at least three (3) months immediately preceding the filing of the petition.

As added by P.L.1-1997, SEC.7. Amended by P.L.83-2014, SEC.14.

IC 31-15-2-7

Venue; legal separation proceeding pending or order in effect; disposition

Sec. 7. (a) A petition or counter petition for dissolution of marriage must be filed in the court in which:

(1) a legal separation proceeding is pending; or

(2) a provisional order or decree for legal separation is in effect;

if the petition for legal separation was filed before the petition or counter petition for dissolution of marriage.

(b) If a petition or counter petition for dissolution of marriage under section 4 of this chapter is filed while a provisional order or decree for legal separation is in effect, the procedure for dissolution

of marriage continues. The provisional order or decree for legal separation remains in effect only:

- (1) until the effective date of the provisional order on the petition or counter petition for dissolution; or
- (2) until the provisional order or decree for legal separation expires;

whichever occurs first.

(c) The court shall dismiss a petition for legal separation if, at the time the petition for dissolution is filed, neither:

- (1) a provisional order; nor
- (2) a decree for legal separation;

has been granted.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-8

Service of petition and summons

Sec. 8. Whenever a petition is filed, a copy of the petition, including a copy of a summons, shall be served upon the other party to the marriage in the same manner as service of summons in civil actions generally.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-9

Responsive pleading or counter petition

Sec. 9. A responsive pleading or a counter petition may be filed under this chapter.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-10

Final hearing

Sec. 10. Except as provided in sections 13 and 14 of this chapter, in an action for a dissolution of marriage under section 2 of this chapter, a final hearing shall be conducted not earlier than sixty (60) days after the filing of the petition.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-11

Final hearing; action for legal separation pending when action for dissolution of marriage filed

Sec. 11. If a petition has been filed in an action for legal separation under IC 31-15-3-2 (or IC 31-1-11.5-3(c) before its repeal), a final hearing on a petition or counter petition subsequently filed in an action for dissolution of marriage under section 2 of this chapter (or IC 31-1-11.5-3(a) before its repeal) may be held at any time after sixty (60) days after the petition in an action for legal separation under IC 31-15-3-2 has been filed.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-12

Motion to dismiss by party who filed action; counter petition; hearing

Sec. 12. (a) This section applies if a party who filed an action for dissolution of marriage under section 2 of this chapter (or IC 31-1-11.5-3(a) before its repeal) files a motion to dismiss the action.

(b) A party that files an action shall serve each other party to the action with a copy of the motion.

(c) A party to the action may file a counter petition under section 2 of this chapter not later than five (5) days after the filing of the motion to dismiss. If a party files a counter petition under this subsection, the court shall set the petition and counter petition for final hearing not earlier than sixty (60) days after the initial petition was filed.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-13

Summary dissolution decree

Sec. 13. At least sixty (60) days after a petition is filed in an action for dissolution of marriage under section 2 of this chapter, the court may enter a summary dissolution decree without holding a final hearing under this chapter if there have been filed with the court verified pleadings, signed by both parties, containing:

- (1) a written waiver of final hearing; and
- (2) either:
 - (A) a statement that there are no contested issues in the action; or
 - (B) a written agreement made in accordance with section 17 of this chapter that settles any contested issues between the parties.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-14

Bifurcation of issues; summary disposition orders

Sec. 14. (a) The court may bifurcate the issues in an action for dissolution of marriage filed under section 2 of this chapter (or IC 31-1-11.5-3(a) before its repeal) to provide for a summary disposition of uncontested issues and a final hearing of contested issues. The court may enter a summary disposition order under this section upon the filing with the court of verified pleadings, signed by both parties, containing:

- (1) a written waiver of a final hearing in the matter of:
 - (A) uncontested issues specified in the waiver; or
 - (B) contested issues specified in the waiver upon which the parties have reached an agreement;
- (2) a written agreement made in accordance with section 17 of this chapter pertaining to contested issues settled by the parties;

and

(3) a statement:

(A) specifying contested issues remaining between the parties; and

(B) requesting the court to order a final hearing as to contested issues to be held under this chapter.

(b) The court shall include in a summary disposition order entered under this section a date for a final hearing of contested issues.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-15

Final hearing; evidence; dissolution decree; continuance; motion for dissolution

Sec. 15. (a) At the final hearing on a petition for dissolution of marriage the court shall consider evidence, including agreements and verified pleadings filed with the court. If the court finds that the material allegations of the petition are true, the court:

(1) shall enter a dissolution decree as provided in section 16 of this chapter; or

(2) if the court finds that there is a reasonable possibility of reconciliation, may continue the matter and order the parties to seek reconciliation through any available counseling.

(b) At any time forty-five (45) days after the date of a continuance:

(1) either party may move for the dissolution of the marriage; and

(2) the court may enter a dissolution decree as provided in section 16 of this chapter.

(c) If no motion for the dissolution is filed, the matter shall be, automatically and without further action by the court, dismissed after the expiration of ninety (90) days from the date of continuance.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-16

Dissolution decree; scope; finality; remarriage pending appeal

Sec. 16. (a) The court shall enter a dissolution decree:

(1) when the court has made the findings required by section 15 of this chapter; or

(2) upon the filing of pleadings under section 13 of this chapter.

The decree may include orders as provided for in this article.

(b) A dissolution decree is final when entered, subject to the right of appeal.

(c) An appeal from the provisions of a dissolution decree that does not challenge the findings as to the dissolution of the marriage does not delay the finality of the provision of the decree that dissolves the marriage, so that the parties may remarry pending appeal.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-17

Agreements

Sec. 17. (a) To promote the amicable settlements of disputes that have arisen or may arise between the parties to a marriage attendant upon the dissolution of their marriage, the parties may agree in writing to provisions for:

- (1) the maintenance of either of the parties;
- (2) the disposition of any property owned by either or both of the parties; and
- (3) the custody and support of the children of the parties.

(b) In an action for dissolution of marriage:

- (1) the terms of the agreement, if approved by the court, shall be incorporated and merged into the decree and the parties shall be ordered to perform the terms; or
- (2) the court may make provisions for:
 - (A) the disposition of property;
 - (B) child support;
 - (C) maintenance; and
 - (D) custody;as provided in this title.

(c) The disposition of property settled by an agreement described in subsection (a) and incorporated and merged into the decree is not subject to subsequent modification by the court, except as the agreement prescribes or the parties subsequently consent.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-18

Name change of woman

Sec. 18. A woman who desires the restoration of her maiden or previous married name must set out the name she desires to be restored to her in her petition for dissolution as part of the relief sought. The court shall grant the name change upon entering the decree of dissolution.

As added by P.L.1-1997, SEC.7.

IC 31-15-3

Chapter 3. Actions for Legal Separation

IC 31-15-3-1

Applicability of Indiana Rules of Civil Procedure

Sec. 1. Proceedings under this article must comply with the Indiana Rules of Civil Procedure.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-2

Cause of action established

Sec. 2. A cause of action for legal separation is established.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-3

Findings required for decree

Sec. 3. Legal separation shall be decreed upon a finding by a court:

- (1) that conditions in or circumstances of the marriage make it currently intolerable for both parties to live together; and
- (2) that the marriage should be maintained.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-4

Caption; verified petition; averments; guardian filing petition

Sec. 4. (a) A proceeding for legal separation is commenced by the filing of a petition entitled, "In Re the legal separation of _____ and _____". The petition must:

- (1) be verified; and
- (2) set forth the following:
 - (A) The residence of each party and the length of residence in the state and county.
 - (B) The date of the marriage.
 - (C) The date on which the parties separated.
 - (D) The names, ages, and addresses of:
 - (i) any living child less than twenty-one (21) years of age; and
 - (ii) any incapacitated child;of the marriage and whether the wife is pregnant.
 - (E) The grounds for legal separation.
 - (F) The relief sought.
 - (G) If a guardian of an incapacitated person is filing the petition for legal separation on behalf of the incapacitated person, the name and address of the guardian.

(b) If a guardian of an incapacitated person files a petition for legal separation on behalf of the incapacitated person, the guardian shall file with the petition a copy of the court order granting authority to petition for legal separation described in IC 29-3-9-12.2.

As added by P.L.1-1997, SEC.7. Amended by P.L.83-2014, SEC.15.

IC 31-15-3-5

Dissolution of marriage action; provisional order or decree as bar to legal separation proceeding

Sec. 5. A proceeding may not be commenced under section 4 of this chapter if:

- (1) an action for dissolution of marriage filed under IC 31-15-2-4 (or IC 31-1-11.5-3(a) before its repeal) is pending; or
- (2) a provisional order or decree based on a petition for dissolution of marriage filed under IC 31-15-2-4 (or IC 31-1-11.5-3(a) before its repeal) has been granted.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-6

Residence; filing in county of guardian's residence

Sec. 6. (a) At the time of the filing of a petition for legal separation under section 4 of this chapter, at least one (1) of the parties must have been:

- (1) a resident of Indiana; or
- (2) stationed at a United States military installation within Indiana;

for six (6) months immediately preceding the filing of each petition.

(b) Except as provided in subsection (c), at the time of the filing of a petition for legal separation under section 4 of this chapter, at least one (1) of the parties must have been:

- (1) a resident of the county; or
- (2) stationed at a United States military installation within the county;

where the petition is filed for three (3) months immediately preceding the filing of the petition.

(c) If a court has authorized a guardian to file a petition for legal separation under section 4 of this chapter on behalf of an incapacitated person under IC 29-3-9-12.2, the guardian may file the petition in the guardian's county of residence if the guardian has resided in that county for at least three (3) months immediately preceding the filing of the petition.

As added by P.L.1-1997, SEC.7. Amended by P.L.83-2014, SEC.16.

IC 31-15-3-7

Service of petition and summons

Sec. 7. Whenever a petition is filed, a copy of the petition, including a copy of a summons, shall be served upon the other party to the marriage in the same manner as service of summons in civil actions generally.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-8**Responsive pleading or counter petition**

Sec. 8. A responsive pleading or a counter petition may be filed under this chapter.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-9**Decree; term; findings**

Sec. 9. In an action for legal separation under section 2 of this chapter, the court may grant a decree for a separation of the parties to the marriage for a period not to exceed one (1) year if the court finds that:

- (1) conditions in or circumstances of the marriage make it currently intolerable for both parties to live together;
- (2) the marriage should be maintained; and
- (3) neither party has filed a petition or counter petition for dissolution of marriage under IC 31-15-2 (or IC 31-1-11.5 before its repeal).

As added by P.L.1-1997, SEC.7.

IC 31-15-3-10**Scope of decree**

Sec. 10. A decree under this chapter may include orders as provided in this article.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-11**Maintenance**

Sec. 11. A decree under this chapter may not include a maintenance provision that extends beyond the period of legal separation.

As added by P.L.1-1997, SEC.7.

IC 31-15-4

Chapter 4. Provisional Orders in Dissolution and Legal Separation Actions

IC 31-15-4-1

Motions

Sec. 1. (a) In an action for dissolution of marriage under IC 31-15-2 or legal separation under IC 31-15-3, either party may file a motion for any of the following:

- (1) Temporary maintenance.
- (2) Temporary support or custody of a child of the marriage entitled to support.
- (3) Possession of property.
- (4) Counseling.
- (5) A protective order under IC 34-26-5.

(b) If a party desires a protective order under subsection (a)(5), the party must file a petition under IC 34-26-5 in the court in which the case is pending, and the court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

- (1) review the request; and
- (2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this subsection are controlled by IC 34-26-5.

As added by P.L.1-1997, SEC.7. Amended by P.L.133-2002, SEC.27; P.L.221-2003, SEC.5.

IC 31-15-4-2

Supporting affidavit

Sec. 2. Except for a protective order under section 1 of this chapter, the motion must be accompanied by an affidavit setting forth the following:

- (1) The factual basis for the motion.
- (2) The amounts requested or other relief sought.

As added by P.L.1-1997, SEC.7. Amended by P.L.133-2002, SEC.28.

IC 31-15-4-3

Motion for temporary restraining order

Sec. 3. As a part of a motion for temporary maintenance, for support or custody of a child, or for possession of property under section 1 of this chapter or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order:

- (1) restraining any person from transferring, encumbering, concealing, or in any way disposing of any property, except in the usual course of business or for the necessities of life; or
- (2) granting temporary possession of property to either party.

As added by P.L.1-1997, SEC.7. Amended by P.L.133-2002, SEC.29.

IC 31-15-4-4

Hearing of motions

Sec. 4. The motion for temporary maintenance, support or custody of a child, or possession of property under section 1 of this chapter shall be set for hearing by the court.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-5

Preliminary hearing of petition for temporary support or custody of child

Sec. 5. The court shall immediately schedule a preliminary hearing upon the filing of a petition for:

- (1) temporary child support; or
- (2) temporary custody of a child entitled to support.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-6

Determination

Sec. 6. The court shall determine:

- (1) after the hearing; and
- (2) not later than twenty-one (21) days after the petition is filed;

whether to grant or deny the petition.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-7

Temporary restraining order

Sec. 7. The court may issue a temporary restraining order if the court finds on the basis of the moving party's affidavit that injury would result to the moving party if an immediate order were not issued.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-8

Temporary orders

Sec. 8. (a) The court may issue an order for temporary maintenance or support in such amounts and on such terms that are just and proper. However, the court shall require that the support payments be made through the clerk of the circuit court as trustee for remittance to the person entitled to receive benefits, unless the court has reasonable grounds for providing or approving another method of payment.

(b) The court may issue:

- (1) a temporary restraining order;
- (2) a custody order; or
- (3) an order for possession of property;

to the extent the court considers proper.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-9

Counseling

Sec. 9. The court may require the parties to seek counseling for themselves or for a child of the parties under such terms and conditions that the court considers appropriate if:

- (1) either party makes a motion for counseling in an effort to improve conditions of their marriage;
- (2) a party, the child of the parties, the child's guardian ad litem or court appointed special advocate, or the court makes a motion for counseling for the child; or
- (3) the court makes a motion for counseling for parties who are the parents of a child less than eighteen (18) years of age.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-10

Joint counseling

Sec. 10. The court may not require joint counseling of the parties under section 9 of this chapter:

- (1) without the consent of both parties; or
- (2) if there is evidence that the other party has demonstrated a pattern of domestic or family violence against a family or household member.

As added by P.L.1-1997, SEC.7. Amended by P.L.133-2002, SEC.30.

IC 31-15-4-11

Change of venue or change from judge; effect on jurisdiction

Sec. 11. The filing by either party of a motion for change of venue or change from the judge during the period before the court makes a determination under section 6 of this chapter does not divest the court of jurisdiction to:

- (1) hear evidence upon the petition;
- (2) set an amount of temporary child support;
- (3) determine temporary custody; or
- (4) order appropriate parenting time.

As added by P.L.1-1997, SEC.7. Amended by P.L.68-2005, SEC.27.

IC 31-15-4-12

Change of venue or change from judge; effect on provisional orders

Sec. 12. If the court grants a change of venue or change from the judge after the preliminary order of support, custody, or parenting time is issued, either party may:

- (1) file a petition for a subsequent preliminary hearing on the issue of temporary child support, temporary custody, or parenting time;
- (2) seek relief from the original order; and
- (3) request that the court conduct a hearing relating to any other temporary order available under this article.

As added by P.L.1-1997, SEC.7. Amended by P.L.68-2005, SEC.28.

IC 31-15-4-13

Provisional order; rights not prejudiced

Sec. 13. The issuance of a provisional order is without prejudice to the rights of the parties or the child as adjudicated at the final hearing in the proceeding.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-14

Provisional order; termination

Sec. 14. A provisional order terminates when:

- (1) the final decree is entered subject to right of appeal; or
- (2) the petition for dissolution or legal separation is dismissed.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-15

Provisional order; revocation or modification

Sec. 15. The terms of a provisional order may be revoked or modified before the final decree on a showing of the facts appropriate to revocation or modification.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-16

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5

Chapter 5. Protective Orders in Dissolution and Legal Separation Actions

IC 31-15-5-1

Protective order; procedure

Sec. 1. Either party may request a protective order to prevent domestic or family violence at any time during the dissolution of marriage or legal separation action by filing a petition under IC 34-26-5 in the court in which the case is pending. The court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

- (1) review the request; and
- (2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this section are controlled by IC 34-26-5.

As added by P.L.1-1997, SEC.7. Amended by P.L.197-1997, SEC.6; P.L.133-2002, SEC.31; P.L.221-2003, SEC.6.

IC 31-15-5-2

Repealed

(As added by P.L.1-1997, SEC.7. Amended by P.L.197-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-3

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-4

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-5

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-6

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-7

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-8

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-9

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-10

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-11

Repealed

(As added by P.L.1-1997, SEC.7. Repealed by P.L.133-2002, SEC.69.)

IC 31-15-6

Chapter 6. Appointment of Guardians Ad Litem and Court Appointed Special Advocates in Dissolution and Legal Separation Actions

IC 31-15-6-1

Appointment

Sec. 1. A court in a proceeding under this article may appoint:

- (1) a guardian ad litem;
- (2) a court appointed special advocate; or
- (3) both;

for a child at any time.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-2

Persons ineligible for appointment

Sec. 2. A court may not appoint a party to the proceedings, the party's employee, or the party's representative as the:

- (1) guardian ad litem;
- (2) court appointed special advocate;
- (3) guardian ad litem program; or
- (4) court appointed special advocate program;

for a child who is involved in the proceedings.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-3

Protection of best interests of the child

Sec. 3. A guardian ad litem or court appointed special advocate shall represent and protect the best interests of the child.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-4

Term of appointment

Sec. 4. A guardian ad litem or court appointed special advocate serves until the court enters an order for removal.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-5

Officers of the court

Sec. 5. The guardian ad litem or the court appointed special advocate, or both, are considered officers of the court for the purpose of representing the child's interests.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-6

Representation by attorney

Sec. 6. The guardian ad litem or the court appointed special advocate may be represented by an attorney. If necessary to protect

the child's interests, the court may appoint an attorney to represent the guardian ad litem or the court appointed special advocate.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-7

Subpoena powers; presentation of evidence

Sec. 7. A guardian ad litem or court appointed special advocate appointed by a court under this chapter (or IC 31-1-11.5-28 before its repeal) may subpoena witnesses and present evidence regarding:

- (1) the supervision of the action; or
- (2) any investigation and report that the court requires of the guardian ad litem or court appointed special advocate.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-8

Continuing supervision

Sec. 8. The court may order a guardian ad litem or court appointed special advocate appointed by a court under this chapter (or IC 31-1-11.5-28 before its repeal) to exercise continuing supervision over the child to assure that the custodial or parenting time terms of an order entered by the court under this article (or IC 31-1-11.5 before its repeal) are carried out as required by the court.

As added by P.L.1-1997, SEC.7. Amended by P.L.68-2005, SEC.29.

IC 31-15-6-9

Civil immunity

Sec. 9. Except for gross misconduct:

- (1) a guardian ad litem;
- (2) a court appointed special advocate;
- (3) an employee of a county guardian ad litem or court appointed special advocate program; or
- (4) a volunteer for a guardian ad litem or court appointed special advocate program;

who performs duties in good faith is immune from any civil liability that may occur as a result of that person's performance.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-10

User fee; order for payment

Sec. 10. The court may order either or both parents of a child for whom a guardian ad litem or court appointed special advocate is appointed under this chapter (or IC 31-1-11.5-28 before its repeal) to pay a user fee for the services provided under this chapter.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-11

User fee; collection procedures

Sec. 11. The court shall establish one (1) of the following

procedures to be used to collect the user fee:

(1) The court may order the clerk of the court to collect the user fee and deposit the user fee into the county's guardian ad litem fund or court appointed special advocate fund. The fiscal body of the county shall appropriate money collected as user fees under this chapter to the court having jurisdiction over custody actions for the court's use in providing guardian ad litem or court appointed special advocate services, including the costs of representation.

(2) The court may order either or both parents to pay the user fee to the:

- (A) guardian ad litem program that provided the services; or
- (B) court appointed special advocate program that provided the services.

(3) The court may order either or both parents to pay the user fee to the individual or attorney guardian ad litem that provided the services.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-12

Funds

Sec. 12. Money remaining in a county's:

- (1) guardian ad litem fund; or
- (2) court appointed special advocate fund;

at the end of the county's fiscal year does not revert to any other fund.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-13

User fee; report of receipt of payment

Sec. 13. If the court orders either or both parents to pay the user fee according to section 11(2) or 11(3) of this chapter, the program or the individual or attorney guardian ad litem shall report to the court the receipt of payment not later than thirty (30) days after receiving the payment.

As added by P.L.1-1997, SEC.7.

IC 31-15-7

Chapter 7. Disposition of Property and Maintenance

IC 31-15-7-0.2

Application of certain amendments to prior law

Sec. 0.2. The rebuttable presumption established under IC 31-1-11.5-11(c) (before its repeal, now codified at section 5 of this chapter), as amended by P.L.283-1987, does not apply to the division of marital property in actions for marriage dissolution filed before September 1, 1987.

As added by P.L.220-2011, SEC.498.

IC 31-15-7-0.3

General assembly declarations

Sec. 0.3. The general assembly:

- (1) recognizes that reform of certain elements concerning the manner in which property of spouses is transferred upon the death of a spouse, when there is no will, has become necessary;
- (2) recognizes inconsistencies in the manner in which the property of spouses is divided at marriage dissolution have become apparent;
- (3) sees the need for spouses to be able to enter into a legal agreement during their lifetime, concerning which of their property shall be considered individually owned and which of their property shall be considered jointly owned; and
- (4) agrees to enact the Property and Inheritance Rights of Spouses Act (amendments made to IC 29-1-2-1, IC 29-1-2-13, IC 29-1-3-6, and IC 31-1-11.5-11, before its repeal, now codified at IC 31-15-7-2 and IC 31-15-7-5).

As added by P.L.220-2011, SEC.499.

IC 31-15-7-1

Order for maintenance

Sec. 1. The court may order maintenance in:

- (1) final dissolution of marriage decrees entered under IC 31-15-2-16; and
 - (2) legal separation decrees entered under IC 31-15-3-9;
- after making the findings required by section 2 of this chapter.

As added by P.L.1-1997, SEC.7. Amended by P.L.197-1997, SEC.8.

IC 31-15-7-2

Findings concerning maintenance

Sec. 2. A court may make the following findings concerning maintenance:

- (1) If the court finds a spouse to be physically or mentally incapacitated to the extent that the ability of the incapacitated spouse to support himself or herself is materially affected, the court may find that maintenance for the spouse is necessary

during the period of incapacity, subject to further order of the court.

(2) If the court finds that:

(A) a spouse lacks sufficient property, including marital property apportioned to the spouse, to provide for the spouse's needs; and

(B) the spouse is the custodian of a child whose physical or mental incapacity requires the custodian to forgo employment;

the court may find that maintenance is necessary for the spouse in an amount and for a period of time that the court considers appropriate.

(3) After considering:

(A) the educational level of each spouse at the time of marriage and at the time the action is commenced;

(B) whether an interruption in the education, training, or employment of a spouse who is seeking maintenance occurred during the marriage as a result of homemaking or child care responsibilities, or both;

(C) the earning capacity of each spouse, including educational background, training, employment skills, work experience, and length of presence in or absence from the job market; and

(D) the time and expense necessary to acquire sufficient education or training to enable the spouse who is seeking maintenance to find appropriate employment;

a court may find that rehabilitative maintenance for the spouse seeking maintenance is necessary in an amount and for a period of time that the court considers appropriate, but not to exceed three (3) years from the date of the final decree.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-3

Modification or revocation of order for maintenance

Sec. 3. Provisions of an order with respect to maintenance ordered under section 1 of this chapter (or IC 31-1-11.5-9(c) before its repeal) may be modified or revoked. Except as provided in IC 31-16-8-2, modification may be made only:

(1) upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable; or

(2) upon a showing that:

(A) a party has been ordered to pay an amount in child support that differs by more than twenty percent (20%) from the amount that would be ordered by applying the child support guidelines; and

(B) the order requested to be modified or revoked was issued at least twelve (12) months before the petition requesting modification was filed.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-4

Division of property

Sec. 4. (a) In an action for dissolution of marriage under IC 31-15-2-2, the court shall divide the property of the parties, whether:

- (1) owned by either spouse before the marriage;
- (2) acquired by either spouse in his or her own right:
 - (A) after the marriage; and
 - (B) before final separation of the parties; or
- (3) acquired by their joint efforts.

(b) The court shall divide the property in a just and reasonable manner by:

- (1) division of the property in kind;
- (2) setting the property or parts of the property over to one (1) of the spouses and requiring either spouse to pay an amount, either in gross or in installments, that is just and proper;
- (3) ordering the sale of the property under such conditions as the court prescribes and dividing the proceeds of the sale; or
- (4) ordering the distribution of benefits described in IC 31-9-2-98(b)(2) or IC 31-9-2-98(b)(3) that are payable after the dissolution of marriage, by setting aside to either of the parties a percentage of those payments either by assignment or in kind at the time of receipt.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-5

Presumption for equal division of marital property; rebuttal

Sec. 5. The court shall presume that an equal division of the marital property between the parties is just and reasonable. However, this presumption may be rebutted by a party who presents relevant evidence, including evidence concerning the following factors, that an equal division would not be just and reasonable:

- (1) The contribution of each spouse to the acquisition of the property, regardless of whether the contribution was income producing.
- (2) The extent to which the property was acquired by each spouse:
 - (A) before the marriage; or
 - (B) through inheritance or gift.
- (3) The economic circumstances of each spouse at the time the disposition of the property is to become effective, including the desirability of awarding the family residence or the right to dwell in the family residence for such periods as the court considers just to the spouse having custody of any children.
- (4) The conduct of the parties during the marriage as related to the disposition or dissipation of their property.

(5) The earnings or earning ability of the parties as related to:
(A) a final division of property; and
(B) a final determination of the property rights of the parties.
As added by P.L.1-1997, SEC.7.

IC 31-15-7-6

Monetary judgment to spouse for expenses of postsecondary education

Sec. 6. If the court finds there is little or no marital property, the court may award either spouse a money judgment not limited to the property existing at the time of final separation. However, this award may be made only for the financial contribution of one (1) spouse toward tuition, books, and laboratory fees for the postsecondary education of the other spouse.

As added by P.L.1-1997, SEC.7. Amended by P.L.2-2007, SEC.359.

IC 31-15-7-7

Tax consequences of property division

Sec. 7. The court, in determining what is just and reasonable in dividing property under this chapter, shall consider the tax consequences of the property disposition with respect to the present and future economic circumstances of each party.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-8

Security, bond, or other guarantee of division of property

Sec. 8. Upon entering an order under this chapter, the court may provide for the security, bond, or other guarantee that is satisfactory to the court to secure the division of property.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-9

Repealed

(Repealed by P.L.197-1997, SEC.29.)

IC 31-15-7-9.1

Revocation or modification of property disposition orders; fraud

Sec. 9.1. (a) The orders concerning property disposition entered under this chapter (or IC 31-1-11.5-9 before its repeal) may not be revoked or modified, except in case of fraud.

(b) If fraud is alleged, the fraud must be asserted not later than six (6) years after the order is entered.

As added by P.L.2-1998, SEC.75.

IC 31-15-7-10

Enforcement

Sec. 10. Notwithstanding any other law, all orders and awards contained in a dissolution of marriage decree or legal separation

decree may be enforced by:

- (1) contempt;
- (2) an income withholding order; or
- (3) any other remedies available for the enforcement of a court order;

except as otherwise provided by this article.

*As added by P.L.1-1997, SEC.7. Amended by P.L.197-1997, SEC.9;
P.L.148-2006, SEC.12.*

IC 31-15-8

Chapter 8. Support of Children and Other Dependents

IC 31-15-8-1

Governing law

Sec. 1. The support of children and other dependents is governed by IC 31-16.

As added by P.L.1-1997, SEC.7.

IC 31-15-9

Chapter 9. Conciliation

IC 31-15-9-1

Authorized referrals

Sec. 1. Conciliation procedures may include referrals to any of the following:

- (1) The family relations division of the court, if established.
- (2) Public or private marriage counselors.
- (3) Family service agencies.
- (4) Community mental health centers.
- (5) Licensed psychologists.
- (6) Physicians.
- (7) Attorneys.
- (8) Clergy.
- (9) Mediators.

As added by P.L.1-1997, SEC.7.

IC 31-15-9-2

Costs

Sec. 2. (a) Except as provided in subsection (b), the parties shall pay the costs of conciliation procedures that the court orders.

(b) If the court determines that the parties will be unable to pay the costs without prejudicing their financial ability to provide themselves and any minor children with economic necessities, the costs shall be paid from the budget of the court.

As added by P.L.1-1997, SEC.7.

IC 31-15-9.4
Chapter 9.4. Mediation

IC 31-15-9.4-1
Factors in determination

Sec. 1. Whenever the court issues an order under this article, other than an ex parte order, the court shall determine whether the proceeding should be referred to mediation. In making this determination, the court shall consider:

- (1) the ability of the parties to pay for the mediation services; and
- (2) whether mediation is appropriate in helping the parties resolve their disputes.

As added by P.L.199-1997, SEC.1.

IC 31-15-9.4-2
Docketing; extension; report

Sec. 2. When a case is ordered to mediation, the case shall be placed on the court docket for final hearing. The mediation process must be completed not later than sixty (60) days after the mediation order is entered. However, the sixty (60) day period may be extended by the court upon the court's own motion, upon agreement of the parties, or upon the recommendation of the mediator, but may not be extended beyond the date set for final hearing. Upon completion of the mediation process, the mediator shall promptly file the mediation report.

As added by P.L.199-1997, SEC.1.

IC 31-15-10

Chapter 10. Costs and Attorney's Fees

IC 31-15-10-1

Costs and attorney's fees; order for direct payment to attorney

Sec. 1. (a) The court periodically may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this article and for attorney's fees and mediation services, including amounts for legal services provided and costs incurred before the commencement of the proceedings or after entry of judgment.

(b) The court may order the amount to be paid directly to the attorney, who may enforce the order in the attorney's name.

As added by P.L.1-1997, SEC.7. Amended by P.L.199-1997, SEC.4.

IC 31-15-10-2

Exemption for agencies

Sec. 2. Neither costs or attorney fees may be taxed against an agency, or the agency's agents, that is authorized to maintain proceedings under this article by Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) and IC 31-25-4-17.

As added by P.L.1-1997, SEC.7. Amended by P.L.145-2006, SEC.231.