

## **IC 31-16-6**

### **Chapter 6. Child Support Orders**

#### **IC 31-16-6-1**

##### **Child support orders; relevant factors; income withholding; account at financial institution**

Sec. 1. (a) In an action for dissolution of marriage under IC 31-15-2, legal separation under IC 31-15-3, child support under IC 31-16-2, or establishment of paternity under IC 31-14, the court may order either parent or both parents to pay any amount reasonable for support of a child, without regard to marital misconduct, after considering all relevant factors, including:

- (1) the financial resources of the custodial parent;
- (2) the standard of living the child would have enjoyed if:
  - (A) the marriage had not been dissolved;
  - (B) the separation had not been ordered; or
  - (C) in the case of a paternity action, the parents had been married and remained married to each other;
- (3) the physical or mental condition of the child and the child's educational needs; and
- (4) the financial resources and needs of the noncustodial parent.

(b) The court shall order that child support payments ordered under this section be immediately withheld from the income of the parent obligated to pay child support as provided under IC 31-16-15-0.5.

(c) The court shall order a custodial parent or third party under IC 31-16-10-1 who receives child support to obtain an account at a financial institution unless:

- (1) the custodial parent or third party files a written objection before a child support order is issued; and
- (2) the court finds that good cause exists to exempt the custodial parent or third party from the account requirement.

A custodial parent or third party ordered to obtain an account shall provide the clerk of the circuit court, the state central collection unit, or other person or entity acting as assignee or trustee for remittance with an account number and any other information necessary to transfer funds to the account.

(d) In accordance with its policies, a financial institution may restrict or deny services to a person ordered to obtain an account under this section.

(e) This section may not be construed to require the clerk of the circuit court to remit child support payments by electronic funds transfer.

*As added by P.L.1-1997, SEC.8. Amended by P.L.86-2002, SEC.9; P.L.207-2013, SEC.44.*

#### **IC 31-16-6-1.5**

##### **Claiming child for tax purposes; considerations; conditions**

Sec. 1.5. (a) A court shall specify in a child support order which parent of a child may claim the child as a dependent for purposes of federal and state taxes.

(b) In determining which parent may claim the child as a dependent under subsection (a), the court shall consider the following:

- (1) The value of claiming the child as a dependent at the marginal tax rate of each parent.
- (2) The income of each parent.
- (3) The age of the child or children and the number of years that the child or children could be claimed as a dependent or dependents.
- (4) Each parent's percentage of the costs of supporting the child or children.
- (5) If applicable, the financial aid benefit for postsecondary education for the child or children.
- (6) If applicable, the financial burden each parent assumed under the property settlement in a dissolution proceeding.
- (7) Any other relevant factors.

(c) If a court designates that the noncustodial parent of a child may claim the child as a dependent for purposes of federal and state taxes, the court shall order the custodial parent of the child to take all actions necessary to release the custodial parent's claim to the exemption in the manner required under Section 152(e) of the Internal Revenue Code.

(d) If a court determines that a parent who is ordered to pay child support may claim the child as a dependent under subsection (a), the court shall include in the order that the parent may only claim the child as a dependent for federal and state tax purposes if the parent has paid at least ninety-five percent (95%) of the parent's child support for the calendar year for which the parent is ordered to claim the child as a dependent by January 31 of the following year.

*As added by P.L.210-2011, SEC.4. Amended by P.L.6-2012, SEC.203.*

### **IC 31-16-6-2**

#### **Expenses for child's education and health care; Title IV-D fees**

Sec. 2. (a) The child support order or an educational support order may also include, where appropriate:

- (1) amounts for the child's education in elementary and secondary schools and at postsecondary educational institutions, taking into account:
  - (A) the child's aptitude and ability;
  - (B) the child's reasonable ability to contribute to educational expenses through:
    - (i) work;
    - (ii) obtaining loans; and
    - (iii) obtaining other sources of financial aid reasonably

available to the child and each parent; and  
(C) the ability of each parent to meet these expenses;  
(2) special medical, hospital, or dental expenses necessary to serve the best interests of the child; and  
(3) fees mandated under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).  
(b) If the court orders support for a child's educational expenses at a postsecondary educational institution under subsection (a), the court shall reduce other child support for that child that:  
(1) is duplicated by the educational support order; and  
(2) would otherwise be paid to the custodial parent.  
*As added by P.L.1-1997, SEC.8. Amended by P.L.2-2007, SEC.361.*

### **IC 31-16-6-3**

#### **Setting aside parent's property**

Sec. 3. As part of the child support order the court may set apart the part of the property of either parent or both parents that appears necessary and proper for the support of the child.  
*As added by P.L.1-1997, SEC.8.*

### **IC 31-16-6-4**

#### **Medical support**

Sec. 4. (a) A child support order must require either parent or both parents to provide medical support for the child through health insurance coverage if the health insurance coverage is available to the parent at a reasonable cost.  
(b) An order for medical support under this section shall be enforced under 42 U.S.C. 666(a)(19).  
*As added by P.L.1-1997, SEC.8. Amended by P.L.86-2002, SEC.10; P.L.103-2007, SEC.18; P.L.80-2010, SEC.29.*

### **IC 31-16-6-5**

#### **Security, bond, or other guarantees**

Sec. 5. Upon entering an order under section 1 of this chapter, the court may provide for such security, bond, or other guarantee that is satisfactory to the court to secure the obligation to make child support payments.  
*As added by P.L.1-1997, SEC.8.*

### **IC 31-16-6-6**

#### **Termination of child support; emancipation; petition for educational needs**

Sec. 6. (a) The duty to support a child under this chapter, which does not include support for educational needs, ceases when the child becomes nineteen (19) years of age unless any of the following conditions occurs:  
(1) The child is emancipated before becoming nineteen (19) years of age. In this case the child support, except for the

educational needs outlined in section 2(a)(1) of this chapter, terminates at the time of emancipation, although an order for educational needs may continue in effect until further order of the court.

(2) The child is incapacitated. In this case the child support continues during the incapacity or until further order of the court.

(3) The child:

(A) is at least eighteen (18) years of age;

(B) has not attended a secondary school or postsecondary educational institution for the prior four (4) months and is not enrolled in a secondary school or postsecondary educational institution; and

(C) is or is capable of supporting himself or herself through employment.

In this case the child support terminates upon the court's finding that the conditions prescribed in this subdivision exist. However, if the court finds that the conditions set forth in clauses (A) through (C) are met but that the child is only partially supporting or is capable of only partially supporting himself or herself, the court may order that support be modified instead of terminated.

(b) For purposes of determining if a child is emancipated under subsection (a)(1), if the court finds that the child:

(1) is on active duty in the United States armed services;

(2) has married; or

(3) is not under the care or control of:

(A) either parent; or

(B) an individual or agency approved by the court;

the court shall find the child emancipated and terminate the child support.

(c) If a court has established a duty to support a child in a court order issued before July 1, 2012, the:

(1) parent or guardian of the child; or

(2) child;

may file a petition for educational needs until the child becomes twenty-one (21) years of age.

(d) If a court has established a duty to support a child in a court order issued after June 30, 2012, the:

(1) parent or guardian of the child; or

(2) child;

may file a petition for educational needs until the child becomes nineteen (19) years of age.

(e) If:

(1) an order was issued after June 30, 2012, that denied support for educational needs to a child who was less than twenty-one (21) years of age at the time the petition for educational needs was filed; and

(2) support for educational needs was denied based on the fact that the child was older than eighteen (18) years of age; notwithstanding any other law, a parent or guardian of the child or the child may file with the court a subsequent petition for educational needs. The court shall consider the petition on the merits in accordance with this section and may not consider the absence of subsection (c) from law at the time of the initial filing.

*As added by P.L.1-1997, SEC.8. Amended by P.L.2-2007, SEC.362; P.L.80-2010, SEC.30; P.L.111-2012, SEC.2; P.L.207-2013, SEC.45.*

#### **IC 31-16-6-7**

##### **Effect of child's emancipation or death of parent obligated to pay support**

Sec. 7. (a) Unless otherwise agreed in writing or expressly provided in the order, provisions for child support are terminated:

- (1) by the emancipation of the child; but
- (2) not by the death of the parent obligated to pay the child support.

(b) If the parent obligated to pay support dies, the amount of support may be modified or revoked to the extent just and appropriate under the circumstances on petition of representatives of the parent's estate.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-6-7.5**

##### **Funeral expenses**

Sec. 7.5. If the child dies while a support order is in effect, the court may order either or both parents to pay reasonable funeral expenses.

*As added by P.L.207-2013, SEC.46.*

#### **IC 31-16-6-7.8**

##### **Child support considered priority claim**

Sec. 7.8. Child support that:

- (1) the parent was obligated to pay; and
- (2) has not been paid at the time of the parent's death;

constitutes a priority claim against the estate.

*As added by P.L.207-2013, SEC.47.*

#### **IC 31-16-6-8**

##### **Repealed**

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

#### **IC 31-16-6-9**

##### **Duty to furnish information; exception**

Sec. 9. (a) The custodial parent and noncustodial parent shall furnish the following information to the clerk of the court for entry into the Indiana support enforcement tracking system (ISETS) or its

successor statewide automated support enforcement system at the time of the issuance or modification of a child support order:

- (1) Except as provided in subsection (b), the parent's:
  - (A) Social Security number;
  - (B) current residence and mailing address;
  - (C) telephone numbers;
  - (D) date of birth; and
  - (E) driver's license number.
- (2) The name, telephone number, and address of the parent's employer.

(b) An individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the attorney general under IC 5-26.5 as the individual's current residence and mailing address.

*As added by P.L.80-2010, SEC.31. Amended by P.L.128-2012, SEC.35.*

#### **IC 31-16-6-10**

##### **Notice of change of address, federal assistance, and other conditions affecting support order; exception**

Sec. 10. (a) Except as provided in subsection (c), a party affected by a support order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of any change of address not more than fifteen (15) days after the party's address is changed.

(b) At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of:

- (1) whether any of the parties is receiving or has received assistance under the:
  - (A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or
  - (B) federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.); and
- (2) the Social Security number of any child affected by the order.

The Social Security number required under subdivision (2) shall be maintained in the Indiana support enforcement tracking system (ISETS) or its successor statewide automated support enforcement system and shall be kept confidential and may be used only to carry out the purposes of the Title IV-D program.

(c) A party who is an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the

attorney general under IC 5-26.5 as the individual's principal residence and mailing address.

*As added by P.L.80-2010, SEC.32. Amended by P.L.128-2012, SEC.36.*