

**IC 31-16**

**ARTICLE 16. FAMILY LAW: SUPPORT OF  
CHILDREN AND OTHER DEPENDENTS**

**IC 31-16-1**

Chapter 1. General Provisions

**IC 31-16-1-1**

**Construction and application of IC 31-16-1 through IC 31-16-12**

Sec. 1. This chapter and IC 31-16-2 through IC 31-16-12 shall be construed and applied to promote the purpose and policy of this chapter and IC 31-16-2 through IC 31-16-12.

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

**IC 31-16-1-2**

**Purposes and policies of IC 31-16-1 through IC 31-16-12**

Sec. 2. The purpose and policy of this chapter and IC 31-16-2 through IC 31-16-12 are to provide for child support.

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

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

### **Chapter 2. Actions for Child Support**

## **IC 31-16-2-1**

### **Applicability of Indiana Rules of Civil Procedure**

Sec. 1. Proceedings under this chapter and IC 31-16-3.5 through IC 31-16-12 must comply with the Indiana Rules of Civil Procedure.  
*As added by P.L.1-1997, SEC.8. Amended by P.L.1-2010, SEC.117.*

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

### **Cause of action established**

Sec. 2. A cause of action for child support is established.  
*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-2-3**

### **Caption; standing**

Sec. 3. A proceeding for child support must be commenced by the filing of a petition entitled, "In Re the support of \_\_\_\_\_". The petition may be filed by any person entitled to receive child support payments.  
*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-2-4**

### **Verified petition; averments**

Sec. 4. A petition for child support:

- (1) must be verified; and
- (2) must set forth the following:
  - (A) The relationship of the parties.
  - (B) The present residence of each party.
  - (C) The names and addresses of:
    - (i) each living child less than twenty-one (21) years of age; and
    - (ii) each incapacitated child;
  - of the marriage.
  - (D) The relief sought.

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

## **IC 31-16-2-5**

### **Service of petition and summons**

Sec. 5. Whenever a petition is filed, a copy of the petition, including a copy of a summons, shall be served upon the person alleged to be responsible for child support in the same manner as service of summons in civil actions generally.  
*As added by P.L.1-1997, SEC.8.*

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

### **Residence**

Sec. 6. In an action for child support under section 2 of this chapter, one (1) of the parties must reside in the county at the time of the filing of the action.

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

#### **IC 31-16-2-7**

##### **Responsive pleading or counter petition**

Sec. 7. A responsive pleading or a counter petition may be filed under this chapter or IC 31-16-3.5 through IC 31-16-12.

*As added by P.L.1-1997, SEC.8. Amended by P.L.1-2010, SEC.118.*

#### **IC 31-16-2-8**

##### **Decree; findings; scope**

Sec. 8. (a) The court shall enter a decree in an action under section 2 of this chapter when the court finds:

- (1) that there is a duty to support by the person alleged to have the duty;
- (2) that the duty to support has not been fulfilled; and
- (3) that an order should be entered under IC 31-16-6-1.

(b) The decree may include orders as provided for in IC 31-16-3.5 through IC 31-16-12.

*As added by P.L.1-1997, SEC.8. Amended by P.L.1-2010, SEC.119.*

**IC 31-16-3**

**Repealed**

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

**IC 31-16-3.5**

Chapter 3.5. Security to Secure Child Support

**IC 31-16-3.5-1**

**Bonds; requirements**

Sec. 1. A bond required under this article to secure the obligation of child support must:

- (1) be in writing; and
- (2) be secured by:
  - (A) at least one (1) resident freehold surety; or
  - (B) a commercial insurance company.

*As added by P.L.171-2001, SEC.8.*

**IC 31-16-3.5-2**

**Bonds; form**

Sec. 2. A bond described in section 1 of this chapter may be prepared in substantially the following form:

STATE OF INDIANA )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )  
 )  
 )  
IN THE MATTER OF: )  
 )  
 )  
Name of Parent (As the Principal) )  
 )  
Name of Parent (As the Obligee) )  
 )  
 )  
CHILD: )  
 )  
Name of Child )  
 )  
KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_,  
as Principal, and \_\_\_\_\_, as Surety, are held and firmly bound unto  
\_\_\_\_\_, as Obligee, in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), for the  
payment of which well and truly to be made we hereby bind  
ourselves and our heirs, administrators, successors, and assigns,  
jointly and severally, firmly by these presents.  
WHEREAS, an Order was duly made and entered by the above  
Court in the State of Indiana, County of \_\_\_\_\_, dated \_\_\_\_\_, defining  
custody, parenting time, and support rights regarding the named  
children.  
NOW THEREFORE, the conditions of this obligation are such  
that:  
1. No right of action on this bond shall be granted for the use  
or benefit of any individual, partnership, corporation, or  
other entity, other than the named Obligee.  
2. It is agreed that neither this bond nor the obligation of this

bond, nor any interest in this bond, may be assigned without the prior express written consent of the Surety.

3. Payment under this bond shall be conditioned upon the Obligee's, or the representative of the Obligee's, filing a motion with the court seeking a declaration of forfeiture of the bond and the Court's finding and entry of a final judgment ordering the Principal and Surety to make such payment. A certified copy of the filing shall be provided to the Surety at its address of record. The Surety shall make payment within thirty (30) days of receiving notification of the final judgment directly to a Trustee appointed by the Court who shall administer the funds in a fiduciary capacity.
4. The Surety shall not be liable hereunder for any amount larger than the face amount of this bond.
5. This bond and the obligation hereunder shall terminate and be of no further effect if the Court order requiring it is modified in any way without the Surety's consent, the Court order expires, or this cause is removed to another jurisdiction.
6. The Surety may file a motion with the Court for discharge of this bond and its obligation hereunder for any good cause. Good cause includes, but is not limited to, misrepresentation or fraud in the initial application for this bond, nonpayment of premium, loss of collateral, or resignation of the Indemnitor. The Surety shall give notice of any such motion to the Obligee.

NOW THEREFORE, if the Principal faithfully complies with the requirements and conditions of the Court Order within the limitations and parameters set forth therein, then this Obligation shall be void, otherwise it shall remain in full force and effect.

In witness whereof, each party to this bond has caused it to be executed at the place and on the date indicated below.

Signed, sealed and dated on this \_\_\_\_ day of \_\_\_\_, 20\_\_.

Principal:

Surety:

\_\_\_\_\_  
(Name and address of Principal) (Name and address of Surety)

\_\_\_\_\_  
(Signature of Principal) ( C o u n t e r s i g n e d b y  
attorney-in-fact)

(Surety seal)

Witness:

*As added by P.L.171-2001, SEC.8. Amended by P.L.68-2005, SEC.30.*

### **IC 31-16-3.5-3**

#### **Forfeiture; use of proceeds**

Sec. 3. Upon forfeiture, the proceeds of the security, a bond, or other guarantee ordered to secure the obligation of child support, enforcement of a custody order, or enforcement of a parenting time

order under this article may only be used to:

- (1) reimburse the nonviolating party for actual costs or damages incurred in upholding the court's order;
- (2) locate and return the child to the residence as set forth in the court's order, if the security, bond, or guarantee covers custody or parenting time, or both; or
- (3) reimburse reasonable fees and court costs to the court appointed trustee.

*As added by P.L.171-2001, SEC.8. Amended by P.L.68-2005, SEC.31.*

#### **IC 31-16-3.5-4**

##### **Forfeiture; excess proceeds**

Sec. 4. The proceeds of the security, bond, or other guarantee ordered to secure the obligation of child support ordered under this article that are not applied to the expenses described in section 3 of this chapter must be applied toward:

- (1) the child's postsecondary education; or
- (2) the support and maintenance of the child.

*As added by P.L.171-2001, SEC.8. Amended by P.L.2-2007, SEC.360.*

**IC 31-16-4**

**Repealed**

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



**IC 31-16-5**

**Repealed**

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

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

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

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

##### **Child support orders; relevant factors; 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, or child support under IC 31-16-2, 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; or
  - (B) the separation had not been ordered;
- (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 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 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.

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

(d) 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.*

#### **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, 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.*

### **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 or modification of child support; emancipation of child**

Sec. 6. (a) The duty to support a child under this chapter ceases when the child becomes twenty-one (21) years of age unless any of the following conditions occurs:

(1) The child is emancipated before becoming twenty-one (21) 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.

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

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

#### **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) 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.*

#### **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 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.*

#### **IC 31-16-6.4**

##### **Chapter 6.4. Mediation**

#### **IC 31-16-6.4-1**

##### **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.2.*

#### **IC 31-16-6.4-2**

##### **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.2.*

**IC 31-16-7**

**Repealed**

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



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

### **Chapter 8. Modification of Child Support or Maintenance Orders**

#### **IC 31-16-8-1**

##### **Modification or revocation of child support order or maintenance order**

Sec. 1. (a) Provisions of an order with respect to child support or an order for maintenance (ordered under IC 31-16-7-1 or IC 31-1-11.5-9(c) before their repeal) may be modified or revoked.

(b) Except as provided in section 2 of this chapter, 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.

(c) Modification under this section is subject to IC 31-25-4-17(a)(6).

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.19.*

#### **IC 31-16-8-2**

##### **Medical support**

Sec. 2. The court shall modify a support order to require either parent or both parents to provide medical support for the child through the health insurance coverage if a Title IV-D agency, authorized under the federal Social Security Act (42 U.S.C. 651 through 669) and IC 31-25-4-17, petitions for the modification and the coverage is available to the parent at a reasonable cost.

*As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.232; P.L.80-2010, SEC.33.*

#### **IC 31-16-8-3**

##### **Security, bond, or guarantee**

Sec. 3. The court may provide in a modification of a support order for the security, bond, or other guarantee that is satisfactory to the court to secure the obligation to make support payments.

*As added by P.L.171-2001, SEC.9.*

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

### **Chapter 9. Method of Payment of Support**

#### **IC 31-16-9-0.3**

##### **Wage deductions for child support order; employer collection of certain fees**

Sec. 0.3. An employer who makes a deduction from an employee's wages, in accordance with an assignment of wages for the payment of child support ordered by the court before September 1, 1985, under IC 31-1-11.5-13 (before its repeal, now codified in this chapter and at IC 31-16-12), may collect a fee of two dollars (\$2) each time the employer makes a deduction. The fee may be deducted by the employer from the employee's wages each time the employer makes the deduction for support.

*As added by P.L.220-2011, SEC.500.*

#### **IC 31-16-9-1**

##### **Clerk or state central collection unit as trustee for remittance**

Sec. 1. (a) This subsection applies before January 1, 2007. Upon entering an order for support in:

- (1) a dissolution of marriage decree under IC 31-15-2;
- (2) a legal separation decree under IC 31-15-3; or
- (3) a child support decree under IC 31-16-2;

the court shall require that support payments be made through the clerk of the circuit court as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment.

(b) Beginning January 1, 2007, except as provided in subsection (c), upon entering an order for support in:

- (1) a dissolution of marriage decree under IC 31-15-2;
- (2) a legal separation decree under IC 31-15-3; or
- (3) a child support decree under IC 31-16-2;

the court shall require that support payments be made through the clerk of the circuit court or the state central collection unit established by IC 31-33-1.5-8, as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment.

(c) Beginning January 1, 2007, child support payments that are paid in cash must be paid to a clerk of the circuit court, and all noncash payments must be paid to the state central collection unit established within the child support bureau by IC 31-25-3-1.

*As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.10; P.L.148-2006, SEC.13; P.L.3-2008, SEC.231.*

#### **IC 31-16-9-2**

##### **Records; accounting**

Sec. 2. (a) The clerk of the circuit court shall maintain records listing the following:

- (1) The amount of the payments.
- (2) The date when payments are required to be made.

(3) The names and addresses of the parties affected by the order.

(4) The information required to be submitted to the clerk under sections 3 and 4 of this chapter.

(b) If the clerk elects under IC 5-13-6-4(a) not to follow the accounting and depository procedures required by IC 5-13-6, the clerk shall comply with IC 5-13-6-4(b).

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

### **IC 31-16-9-3**

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

Sec. 3. (a) A party affected by a support order shall inform the clerk 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 kept confidential and used only to carry out the purposes of the Title IV-D program.

*As added by P.L.1-1997, SEC.8. Amended by P.L.213-1999, SEC.11; P.L.148-2006, SEC.14; P.L.1-2007, SEC.192; P.L.3-2008, SEC.232; P.L.1-2009, SEC.158.*

### **IC 31-16-9-4**

#### **Duty to furnish Social Security number and employer information**

Sec. 4. The custodial parent and the noncustodial parent shall furnish the following information to the clerk of the court and the state central collection unit at the time of the issuance or modification of a child support order:

(1) The parent's Social Security number.

(2) The name and address of the parent's employer.

*As added by P.L.1-1997, SEC.8. Amended by P.L.138-2001, SEC.11; P.L.148-2006, SEC.15.*

### **IC 31-16-9-5**

#### **Duty of noncustodial parent to furnish employer and health insurance information and Social Security number**

Sec. 5. In all cases administered by the Title IV-D agency, the

court shall order the noncustodial parent to inform the Title IV-D agency and the court of the following:

- (1) The name and address of the noncustodial parent's current employer.
- (2) Access to health insurance.
- (3) Specific health insurance policy information.
- (4) The noncustodial parent's Social Security number.

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

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

##### **Accounting of future expenditures**

Sec. 6. At the time of entering an order for support or at any subsequent time, the court may order, upon a proper showing of necessity, the spouse or other person receiving support payments to provide an accounting to the court of future expenditures upon such terms and conditions as the court decrees.

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

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

### **Chapter 10. Child Support Payments to Third Parties**

#### **IC 31-16-10-1**

##### **Payments of child support to third persons**

Sec. 1. Upon entering an order under IC 31-16-6-1 or at any subsequent time, the court may order, upon the proper showing that a person other than the person awarded custody under IC 31-17-2-8 (or IC 31-1-11.5-21 before its repeal) should receive payments, that the clerk of the circuit court or the person obligated to make the payments transmit those payments to any third person agreed upon by the parties and approved by the court or appointed by the court, including the following:

- (1) A trustee.
- (2) The guardian of the estate of the child.
- (3) Any third person.
- (4) The county office of family and children or any appropriate social service agency.
- (5) The state agency administering Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).
- (6) The township trustee.

*As added by P.L.1-1997, SEC.8. Amended by P.L.139-2000, SEC.3.*

#### **IC 31-16-10-2**

##### **Forwarding of payments to Title IV-D agency**

Sec. 2. (a) If the clerk of the court or the state central collection unit is notified by the Title IV-D agency or the agency's designee that:

- (1) the child who is the beneficiary of a support order is receiving assistance under the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.); and
- (2) an assignment of support rights in favor of the state is in effect against the person obligated to make child support payments;

the clerk of the court or the state central collection unit shall forward the child support payments directly to the Title IV-D agency without further order of the court.

(b) The Title IV-D agency shall disburse the payments in accordance with federal regulations governing the Title IV-D program.

*As added by P.L.1-1997, SEC.8. Amended by P.L.148-2006, SEC.16; P.L.1-2007, SEC.193; P.L.1-2009, SEC.159.*

#### **IC 31-16-10-3**

##### **Use of child support exclusively for child's benefit; Title IV-D disbursements and fees**

Sec. 3. (a) Any person or agency named in section 1 or 2 of this chapter is entitled to receive the child support payments from the clerk of the circuit court or the person obligated to make the payments. The payments shall be used solely for the benefit of the

child entitled to receive the payments.

(b) If the payment has been assigned to the state agency administering Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669), the payments shall be disbursed in accordance with federal regulations governing the Title IV-D program. The court may allow the agency to receive a reasonable fee for services provided under this chapter. The agency shall make financial reports in connection with such services at the time and in the manner that is prescribed by the court or required by law.

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

## **IC 31-16-11**

### **Chapter 11. Costs and Attorney's Fees**

#### **IC 31-16-11-1**

##### **Costs of proceeding and attorney's fees**

Sec. 1. (a) The court periodically may order a party to pay a reasonable amount for:

- (1) the cost to the other party of maintaining or defending any proceeding under this chapter, IC 31-16-2 through IC 31-16-10, or IC 31-16-12;
- (2) attorney's fees; and
- (3) 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.8. Amended by P.L.199-1997, SEC.5.*

#### **IC 31-16-11-2**

##### **Exemption for Title IV-D agencies**

Sec. 2. Neither costs or attorney's fees may be taxed against an agency, or the agency's agents, that is authorized to maintain proceedings under this chapter, IC 31-16-2 through IC 31-16-10, or IC 31-16-12 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.8. Amended by P.L.145-2006, SEC.233.*

## **IC 31-16-12**

### **Chapter 12. Enforcement of Child Support Orders**

#### **IC 31-16-12-0.3**

##### **Repealed**

*(Repealed by P.L.39-2011, SEC.4.)*

#### **IC 31-16-12-1**

##### **Enforcement remedies**

Sec. 1. Notwithstanding any other law, all orders and awards contained in a child support decree or an order directing a person to pay a child support arrearage may be enforced by:

- (1) contempt, including the provisions under section 6 of this chapter;
- (2) an income withholding order; or
- (3) any other remedies available for the enforcement of a court order;

except as otherwise provided by IC 31-16-2 through IC 31-16-11 or this chapter.

*As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.11; P.L.123-2001, SEC.2; P.L.39-2002, SEC.1; P.L.148-2006, SEC.17.*

#### **IC 31-16-12-2**

##### **Delinquent child support payments; interest charges**

Sec. 2. The court may, upon a request by the person or agency entitled to receive child support payments, order interest charges of not more than one and one-half percent (1 1/2%) per month to be paid on any delinquent child support payment. The person or agency may apply for interest if support payments are not made in accordance with the support order. Accrued interest charges may be collected in the same manner as support payments under IC 31-16-9.

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

#### **IC 31-16-12-3**

##### **Arrearages; court orders**

Sec. 3. (a) The obligation of a person to pay child support arrearages does not terminate when the person's duty to support a child ceases under IC 31-16-6-6 (or IC 31-1-11.5-12(e) before its repeal). The statutes applicable to the collection of child support obligations are applicable to the collection of child support arrearages described in this section.

(b) The court, upon request of a person or an agency entitled to receive child support payments, may issue an order that contains any of the following:

- (1) A determination of the amount of child support arrearage due to a person or an agency entitled to receive child support payments.
- (2) An order directing a person to pay the child support arrearage.
- (3) The schedule and other terms on which a person is to pay a



child support arrearage.

(4) Any other provision that the court determines to be appropriate.

An order issued under this subsection is enforceable to the same extent as an order or award in a child support decree.

*As added by P.L.1-1997, SEC.8. Amended by P.L.39-2002, SEC.2.*

#### **IC 31-16-12-4**

##### **Enforcement of judgment; income withholding order**

Sec. 4. Upon application to the court for enforcement of an order for support, the court may:

- (1) enforce a judgment created under IC 31-16-16-2 (or IC 31-2-11-8 before its repeal) against the person obligated to pay support;
- (2) issue an income withholding order as provided in IC 31-16-15-0.5; or
- (3) implement an income withholding order as provided in IC 31-16-15-2.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.20.*

#### **IC 31-16-12-5**

##### **Additional remedies**

Sec. 5. The enforcement remedies provided under this chapter are in addition to other remedies available for collecting delinquent support.

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

#### **IC 31-16-12-6**

##### **Contempt**

Sec. 6. (a) If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court may find the party in contempt of court. If an action or request to enforce payment of a child support arrearage is commenced not later than ten (10) years after:

- (1) the child becomes eighteen (18) years of age; or
- (2) the emancipation of the child;

whichever occurs first, the court may, upon a request by the person or agency entitled to receive child support arrearages, find a party in contempt of court.

(b) The court may order a party who is found in contempt of court under this section to:

- (1) perform community restitution or service without compensation in a manner specified by the court; or
- (2) seek employment.

(c) The court may order a party who is alleged to be in contempt of court under this section to show cause as to why the party should not be held in contempt for violating an order for support. The order to show cause must set forth:

- (1) the contempt allegations;
- (2) the failure to pay child support allegations;

- (3) when the court issued the order for support;
- (4) the party's history of child support payments;
- (5) the specific:
  - (A) date and time when; and
  - (B) place where;
- the party is required to show cause in the court; and
- (6) the party's arrearage.

*As added by P.L.1-1997, SEC.8. Amended by P.L.32-2000, SEC.18; P.L.123-2001, SEC.3; P.L.86-2002, SEC.11; P.L.131-2009, SEC.11.*

### **IC 31-16-12-6.5**

#### **Failure to respond to order to show cause; escrow**

Sec. 6.5. (a) If a party fails to respond to an order to show cause issued under section 6(c) of this chapter by the date and time specified in the order to show cause, the court may issue a bench warrant for the party to be arrested and brought to the court to respond to the order to show cause.

(b) The court must determine an escrow that a party ordered to show cause under section 6(c) of this chapter is required to deposit with the clerk of the circuit court before the hearing to show cause. If the child support arrearage amount is less than five hundred dollars (\$500), the court shall set the required escrow at the amount of the arrearage. If the arrearage is more than five hundred dollars (\$500), the court shall set the required escrow at not less than five hundred dollars (\$500) and not more than one hundred percent (100%) of the arrearage.

(c) All escrow received by a clerk of the circuit court under this section shall be deposited in a single account. The clerk shall:

- (1) keep an accounting of all money deposited in the escrow account;
- (2) issue a receipt to any person who pays money to the clerk under this section; and
- (3) transfer money out of the escrow account only after receiving an order to transfer money issued by the court that issued the bench warrant.

(d) If a party is arrested under subsection (a), the party shall remain in custody until the hearing to show cause unless the party posts the escrow amount required in the bench warrant.

(e) If a party is arrested outside the business hours of the clerk of the circuit court, the party may post the escrow amount stated in the bench warrant with the arresting officer.

(f) The arresting officer or clerk receiving an escrow amount shall give the party a receipt for the escrow on a form substantially as follows:

"Date: \_\_\_\_\_  
Escrow received from \_\_\_\_\_ (referred to in this receipt as respondent) to assure the performance of the respondent's child support arrearage. The respondent shall appear for a hearing to show cause at \_\_\_\_\_(time) on \_\_\_\_\_(date) at the following address:

---

(Address to be furnished by respondent for receipt of notice.)

The hearing is for the respondent to answer an order to show cause. If the respondent is found to be in contempt, further proceedings related to the respondent's contempt may occur.

If the respondent fails to appear at the time and date listed above, fails to submit to the jurisdiction of the court, or fails to abide by the court's orders, the Court may direct the Clerk of the Circuit Court to distribute the escrow deposited with the Clerk of the Circuit Court under state and federal child support distribution laws.

If the respondent appears at the time and location indicated above and the Court determines the respondent owes an arrearage under the support order that is the basis of the order to show cause or owes any costs to the Court, the Court may direct the Clerk of the Circuit Court to distribute the escrow deposited with the Clerk of the Circuit Court under state and federal child support distribution laws.

By depositing the escrow amount and accepting this receipt, the recipient of this receipt waives a claim to the money following a Court order for distribution of child support.

Printed name and signature of person receiving escrow deposit:

\_\_\_\_\_  
Agency or department of person receiving escrow deposit:  
\_\_\_\_\_."

(g) A law enforcement officer who receives escrow money under this section shall deposit the money with the clerk of the circuit court that issued the bench warrant within two (2) business days after receiving the escrow money.

(h) If a party is arrested under subsection (a) and cannot post the escrow amount required in the bench warrant, the party is entitled to a hearing within forty-eight (48) hours after the party's arrest, excluding weekends and holidays, if the court is able to hold the hearing within that period. If the court cannot hold a hearing within forty-eight (48) hours, the court shall review the escrow amount ordered in the bench warrant, may modify the escrow amount in the bench warrant to ensure that the party appears at future hearings, and shall set a date for a hearing. At the hearing, the party shall explain to the court why the party cannot post the required escrow deposit required by the bench warrant. The party shall also respond to the court's order to show cause.

(i) If a party fails to appear at a hearing to respond to an order to show cause issued under this section after the party deposited the escrow amount set in the bench warrant, the court shall order the clerk of the circuit court to distribute the escrow under state and federal child support distribution laws. The court may also issue an additional bench warrant under subsection (a) for the party to respond to additional contempt charges.

(j) If a party posts the escrow amount set in a bench warrant, at a hearing to respond to an order to show cause under this section, the court shall determine how the escrow amount deposited is to be

distributed under state and federal child distribution laws. If the escrow amount deposited exceeds the arrearage, the party is entitled to a refund.

(k) The court may set aside a finding of contempt under this section if the court finds, based on the hearing held under this section, that the party is in compliance with the court's orders.

(l) If a court finds a person to be in contempt of court under this section, the court may punish the person for contempt of court under IC 34-47.

*As added by P.L.131-2009, SEC.12.*

### **IC 31-16-12-7**

#### **Suspension of delinquent person's driving privileges**

Sec. 7. If a court finds that a person is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for support, the court shall issue an order to the bureau of motor vehicles:

- (1) stating that the person is delinquent; and
- (2) ordering the following:
  - (A) If the person who is the subject of the order holds a driving license or permit on the date of issuance of the order, that the driving privileges of the person be suspended until further order of the court.
  - (B) If the person who is the subject of the order does not hold a driving license or permit on the date of issuance of the order, that the bureau may not issue a driving license or permit to the person until the bureau receives a further order of the court.

*As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.234.*

### **IC 31-16-12-8**

#### **Suspension or denial of delinquent person's professional license**

Sec. 8. If a court finds that a person who is an applicant (as defined in IC 25-1-1.2-1), a practitioner (as defined in IC 25-1-1.2-6), an attorney, or a licensed teacher is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for support, the court shall issue an order to the board regulating the practice of the person's profession or occupation:

- (1) requiring that the person's or practitioner's license be suspended until further order of the court; or
- (2) ordering the board not to issue a license to the person who is the subject of the order if the person does not currently hold a license.

*As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.235.*

### **IC 31-16-12-9**

#### **Suspension of delinquent person's horse racing commission or gaming commission license**

Sec. 9. If a court finds that a person who holds a license issued under IC 4-31-6, IC 4-33, or IC 4-35 is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to:

- (1) the Indiana horse racing commission if the person holds a license issued under IC 4-31-6; or
- (2) the Indiana gaming commission if the person holds a license issued under IC 4-33 or IC 4-35;

requiring that the person's license be suspended until further order of the court.

*As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.236; P.L.80-2010, SEC.34.*

### **IC 31-16-12-10**

#### **Suspension, denial, or nonrenewal of delinquent person's insurance, recovery, or bail agent's license**

Sec. 10. If a court finds that a person who holds a license or who is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to the commissioner of the department of insurance:

- (1) requiring that the person's license be suspended until further order of the court;
- (2) ordering the commissioner not to issue a license to the person who is the subject of the order if the person does not currently hold a license; or
- (3) ordering the commissioner not to renew the license of a person who is the subject of the order.

*As added by P.L.1-1997, SEC.8. Amended by P.L.132-2001, SEC.23; P.L.145-2006, SEC.237.*

### **IC 31-16-12-11**

#### **Payment of arrearage; stay of order to licensing authority**

Sec. 11. Notwithstanding section 7, 8, 9, or 10 of this chapter, the court may stay the issuance of an order under section 7, 8, 9, or 10 of this chapter (or IC 31-1-11.5-13(j), IC 31-1-11.5-13(k), IC 31-1-11.5-13(l), or IC 31-1-11.5-13(m) before the repeal of IC 31-1-11.5-13) if:

- (1) the person pays the child support arrearage in full; or
- (2) an income withholding order under IC 31-16-15 (or IC 31-2-10 before its repeal) is implemented and a payment plan to pay the arrearage is established.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.21.*

### **IC 31-16-12-12**

#### **Registration of child support order**

Sec. 12. (a) This section applies if:

- (1) the parent who is entitled to receive child support; and
  - (2) the parent who is ordered to pay child support;
- are both present in Indiana.

(b) The parent who is entitled to receive child support may register a child support order issued by another Indiana court or foreign court for the sole purpose of enforcement in accordance with IC 31-18-6-1 through IC 31-18-6-8 of the Uniform Interstate Family Support Act.

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

### **IC 31-16-12-13**

#### **Suspension, denial, or nonrenewal of delinquent person's employee's permit**

Sec. 13. If a court finds that a person who holds or has applied for an employee's permit issued under IC 7.1-3-18-9(a)(3) is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to the alcohol and tobacco commission that:

- (1) requires the person's employee's permit be suspended until further order of the court;
- (2) orders the chairman of the alcohol and tobacco commission not to issue an employee's permit to the person who is the subject of the order if the person does not currently hold an employee's permit; or
- (3) orders the chairman of the alcohol and tobacco commission not to renew the employee's permit of the person who is the subject of the order.

*As added by P.L.80-2010, SEC.35.*

### **IC 31-16-12-14**

#### **Due process met for notice and service of process; service in contempt proceedings**

Sec. 14. (a) Except as otherwise provided in subsection (b), in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of the party by a prosecuting attorney, private attorney, or private entity operating under an agreement or contract described in IC 31-25-4-13.1, the court or administrative agency with jurisdiction shall deem state due process requirements for notice and service of process to be met with respect to the party required to provide notice, upon mailing of written notice to the other party at the most recent residential or employer address that is filed with the clerk or state central collection unit.

(b) IC 34-47-4 applies to service of an order directing an obligor to appear in a contempt proceeding.

*As added by P.L.80-2010, SEC.36.*

### **IC 31-16-12.5**

#### **Chapter 12.5. Seizure of State Income Tax Refunds for Delinquent Child Support**

### **IC 31-16-12.5-1**

#### **Exception**

Sec. 1. This chapter does not apply to a support order entered in a Title IV-D case.

*As added by P.L.27-2004, SEC.4.*

### **IC 31-16-12.5-2**

#### **Petition; procedure; intervention**

Sec. 2. (a) A custodial parent may file a petition for a setoff of child support from a state income tax refund payable to a child support obligor in:

- (1) the court that entered the original child support order; or
- (2) a court of competent jurisdiction located in the county of residence of the custodial parent.

(b) The petition must be verified and must include all of the following:

- (1) The full name of:
  - (A) the obligor;
  - (B) the custodial parent; and
  - (C) each child to whom the obligor owes child support.
- (2) An averment that:
  - (A) the obligor's aggregate child support arrearage on the date the petition is filed is at least one thousand five hundred dollars (\$1,500); and
  - (B) the obligor has intentionally violated the terms of the most recent child support order.
- (3) An indication of whether the custodial parent:
  - (A) has received or is receiving assistance under the Title IV-A program; or
  - (B) has assigned child support payments under IC 12-14-7-1; during the period for which child support is owed by the obligor.

(c) The court shall notify the child support bureau of the department of the pendency of an action under this chapter if the petition:

- (1) indicates under subsection (b)(3)(A) that the custodial parent has received or is receiving assistance; or
- (2) indicates under subsection (b)(3)(B) that an assignment has occurred.

(d) The state has a right to intervene as a party in a hearing under this chapter if the custodial parent has received or is receiving assistance as described in subsection (b)(3)(A) or if an assignment as described in subsection (b)(3)(B) has occurred.

*As added by P.L.27-2004, SEC.4. Amended by P.L.145-2006, SEC.238.*

### **IC 31-16-12.5-3**

#### **Prohibition**

Sec. 3. A custodial parent may not bring an action under this chapter with respect to an obligor's state income tax refund for a calendar year if the child support bureau has initiated an action under IC 6-8.1-9.5 to set off the obligor's tax refund for that calendar year. *As added by P.L.27-2004, SEC.4.*

### **IC 31-16-12.5-4**

#### **Determination of refund eligibility and filing status**

Sec. 4. (a) A court that receives a petition under section 2 of this chapter shall send an order requiring the department of state revenue to determine the obligor's eligibility for a state income tax refund, whether the obligor filed a joint state income tax return, and if the obligor filed a joint state income tax return, the name and address of the individual with whom the obligor filed the joint state income tax return, if the court preliminarily determines that probable cause exists to believe that the obligor named in the petition:

- (1) was at least one thousand five hundred dollars (\$1,500) in arrears on child support payments at the time the custodial parent filed the petition under section 2 of this chapter; and
- (2) has intentionally violated the terms of the most recent support order.

(b) The department of state revenue, upon receiving an order under subsection (a), shall notify the court whether the obligor named in the order:

- (1) is eligible for a state income tax refund; and
- (2) has filed a joint state income tax return, and if the obligor has filed a joint state income tax return, the name and address of the individual with whom the obligor filed the joint state income tax return.

*As added by P.L.27-2004, SEC.4. Amended by P.L.2-2005, SEC.75.*

### **IC 31-16-12.5-5**

#### **Hearing; notice**

Sec. 5. (a) If the court receives notification under section 4(b) of this chapter that the obligor is eligible for a state income tax refund, the court shall set the matter for a hearing at least thirty (30) days after the date that the court receives notification under section 4(b) of this chapter.

(b) If the court sets the matter for a hearing under subsection (a), the court must send notice of the hearing by certified mail, return receipt requested, to the most recent address of the obligor. The notice must include the date of the hearing and a copy of the petition filed under section 2 of this chapter.

(c) If the court receives notification under section 4(b) of this chapter that the obligor filed a joint state income tax return, the court shall send a notice to the individual with whom the obligor filed a joint state income tax return by certified mail, return receipt requested, and inform the individual:



- (1) of the hearing date;
- (2) that the court may order the individual's and obligor's joint state income tax refund to be intercepted for the obligor's past due child support payments; and
- (3) that the individual may petition the court or provide testimony at the hearing that the individual believes that part of the individual's and obligor's joint state income tax refund should not be intercepted for the obligor's child support and should be paid to the individual.

*As added by P.L.27-2004, SEC.4.*

#### **IC 31-16-12.5-6**

##### **Final order; deadline**

Sec. 6. (a) The court shall issue a final order for a state income tax refund setoff following a hearing under this chapter if the court determines by clear and convincing evidence that the obligor named in the petition:

- (1) is at least one thousand five hundred dollars (\$1,500) in arrears on child support payments; and
- (2) has intentionally violated the terms of the most recent child support order applying to the obligor.

(b) The final order must include the amount of child support arrearage that the department of state revenue shall withhold from the obligor's state income tax refund and the obligor's Social Security number.

(c) In order for the setoff to take effect with respect to a state income tax refund, the final order of the court must be received by the department of state revenue before November 1 of the taxable year for which the tax refund is payable.

*As added by P.L.27-2004, SEC.4.*

#### **IC 31-16-12.5-7**

##### **Distribution of refund**

Sec. 7. (a) The department of state revenue shall submit the refund amount set forth in the final order to the clerk of the circuit court for distribution.

(b) If the custodial parent:

- (1) has received or is receiving assistance under the Title IV-A program; or
- (2) has assigned child support payments under IC 12-14-7-1; during the period of time for which child support is owed by the obligor, the court shall determine whether a portion of the refund must be distributed to the state under subsection (c).

(c) If the court determines that an amount is owed to the state under subsection (b), the court shall order the clerk of the circuit court to distribute the refund:

- (1) to the state in an amount determined by the court; and
- (2) to the custodial parent in any amount remaining after distribution under subdivision (1).

*As added by P.L.27-2004, SEC.4.*

**IC 31-16-12.5-8****Interest charges**

Sec. 8. A final order issued under section 6 of this chapter may include interest charges in an amount determined under IC 31-14-12-1 or IC 31-16-12-2.

*As added by P.L.27-2004, SEC.4.*

**IC 31-16-12.5-9****Fee**

Sec. 9. A custodial parent may not be charged a fee to seek a setoff of a state income tax refund.

*As added by P.L.103-2007, SEC.22.*

**IC 31-16-13**

Chapter 13. Registration of Child Support Orders for Enforcement Purposes

**IC 31-16-13-1****Registration of child support order**

Sec. 1. If:

(1) the parent who is entitled to receive child support; and

(2) the parent who is ordered to pay child support;

are both present in Indiana, the parent who is entitled to receive child support may register a child support order issued by another Indiana court or foreign court for the sole purpose of enforcement in accordance with IC 31-18-6-1 through IC 31-18-6-8 of the Uniform Interstate Family Support Act.

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

## **IC 31-16-14**

### **Chapter 14. Actions for Support of Dependents by Dependent Spouse**

#### **IC 31-16-14-1**

##### **Grounds for bringing action**

Sec. 1. (a) A dependent spouse may bring an action in a circuit or superior court to obtain support from the other spouse for the benefit of the dependent spouse and the dependent children in the custody of the dependent spouse if:

- (1) the other spouse has deserted the dependent spouse or dependent children without cause and without sufficient support;
- (2) the other spouse has:
  - (A) been convicted of a felony;
  - (B) been imprisoned; and
  - (C) left the dependent spouse or dependent children without sufficient support;
- (3) the other spouse:
  - (A) becomes incapacitated; or
  - (B) neglects to provide support for the dependent spouse or dependent children;because the other spouse is a habitual drunkard;
- (4) the other spouse:
  - (A) joins a sect or denomination that requires a renunciation of the marriage or that forbids the spouses to cohabit as husband and wife; and
  - (B) renounces the marriage or refuses to live with the dependent spouse in a marital relationship; or
- (5) the other spouse has been adjudged insane.

(b) A dependent spouse may join other persons as codefendants in an action brought under subsection (a) if the other persons:

- (1) are indebted to either spouse; or
- (2) have rights, credits, or choses in action that belong to either spouse and that are in the possession or control of the other persons.

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

#### **IC 31-16-14-2**

##### **Commencement of action; contents of complaint**

Sec. 2. (a) A dependent spouse may bring an action under section 1 of this chapter by filing a complaint against the other spouse and against other persons who may be joined as codefendants in the action under section 1(b) of this chapter. The complaint must contain the following:

- (1) An allegation of the marriage of the dependent spouse and the other spouse.
- (2) The name and age of each dependent child living with or in the custody of the dependent spouse.
- (3) A statement that the dependent spouse may bring the action

for a reason described in section 1(a) of this chapter.

(4) The most specific possible description of the real and personal property of the other spouse that is in Indiana.

(5) An allegation of the probable value of the real and personal property of the other spouse that is in Indiana.

(6) The circumstances and mode of life of the dependent spouse and other spouse.

(7) The amount necessary to support the dependent spouse and dependent children.

(b) If other persons are joined as codefendants in the action under section 1(b) of this chapter, the complaint described in subsection (a) must also contain the following:

(1) An allegation that the other persons:

(A) are indebted to either spouse; or

(B) have rights, credits, or choses in action that belong to either spouse and that are in the possession or control of the other persons.

(2) An allegation of the amount of indebtedness under subdivision (1)(A).

(3) An allegation of the value of the rights, credits, and choses in action described in subdivision (1)(B).

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

### **IC 31-16-14-3**

#### **Process**

Sec. 3. Process in actions brought under this chapter is the same as in other civil actions.

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

### **IC 31-16-14-4**

#### **Hearing; determination; order to pay money; judicial sale or lease; receivership**

Sec. 4. The court shall hold a hearing on the complaint and make a determination. If the court finds that the allegations in the complaint are true, the court may do any of the following:

(1) Order the defendant spouse to pay an amount that is just, equitable, and in the best interests of the dependent spouse and dependent children.

(2) Order the defendant spouse's real or personal property, or both, to be sold to the highest bidder on terms and upon notice as directed by the court.

(3) Order:

(A) the defendant spouse's real property or a part of the defendant spouse's real property to be leased; and

(B) the proceeds of the lease to be applied to the support of the dependent spouse and dependent children.

(4) Appoint a receiver of the defendant spouse's estate, require the receiver to take an oath and obtain a bond, and order the receiver to:

(A) reduce the estate to possession;

- (B) collect the defendant spouse's rights, credits, and choses in action;
  - (C) manage, sell, mortgage, or lease the defendant spouse's real property; and
  - (D) sell the defendant spouse's personal property.
- (5) Order other parties who are joined in the action under section 1(b) of this chapter to:
- (A) pay indebtedness owed to the defendant spouse; or
  - (B) relinquish possession or control of the defendant spouse's rights, credits, and choses in action or other property;
- to provide support for the dependent spouse and dependent children.

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

#### **IC 31-16-14-5**

##### **Dependent spouse's collection of other spouse's debts; lease or mortgage of other spouse's real property; disposition of proceeds**

Sec. 5. If the court orders support to be paid under this chapter, the court may, without appointing a receiver, authorize the dependent spouse to:

- (1) collect debts owed to the other spouse; and
- (2) lease or mortgage any part of the other spouse's real property and apply the proceeds of the mortgage or lease to the support of the dependent spouse and dependent children.

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

#### **IC 31-16-14-6**

##### **Action to modify order made under this chapter**

Sec. 6. An action to modify an order made under this chapter may be initiated by filing a complaint and providing notice in accordance with sections 2 and 3 of this chapter.

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

#### **IC 31-16-14-7**

##### **Sales of real property**

Sec. 7. If real property is sold under this chapter:

- (1) the sale must be made by a receiver or commissioner appointed by the court for that purpose;
- (2) the sale must be of the entire fee;
- (3) the court may confirm the sale;
- (4) the court may order deeds;
- (5) the court may require the purchaser to:
  - (A) obtain a mortgage; or
  - (B) provide security; and
- (6) the purchaser's title may not be questioned collaterally if:
  - (A) the defendant spouse had personal service of process; or
  - (B) the defendant spouse:
    - (i) left Indiana or could not be found; and
    - (ii) received service of process by publication.

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

## **IC 31-16-15**

### **Chapter 15. Child Support Income Withholding Orders**

#### **IC 31-16-15-0.3**

##### **Application**

Sec. 0.3. This chapter applies to child support ordered in any proceeding, including a dissolution of marriage and a paternity action.

*As added by P.L.80-2010, SEC.37.*

#### **IC 31-16-15-0.5**

##### **Income withholding orders; stay**

Sec. 0.5. (a) Except as provided in subsection (c), in any proceeding in which a court has ordered, modified, or enforced periodic payments of child support, the court shall include a provision ordering that child support payments be immediately withheld from the income of the obligor in an amount necessary to comply with the support order, including amounts for current child support obligations, child support arrearage, medical support, interest, and fees.

(b) Except as provided in subsection (c), a court or Title IV-D agency shall implement an order for immediate income withholding under subsection (a):

- (1) if the address of the obligor's income payor is known, not more than fifteen (15) calendar days after the date of the issuance of a support order; or
- (2) if the address of the obligor's income payor is not known, not more than fifteen (15) calendar days after the date the address of the obligor's income payor becomes known.

(c) A court may stay implementation of an income withholding order only if one (1) or more of the following occurs:

- (1) One (1) of the parties demonstrates and the court finds good cause not to order immediate income withholding by finding all of the following:
  - (A) A stay of implementation of the income withholding order is in the best interests of the child.
  - (B) The obligor has a history of substantially uninterrupted, full, and timely child support payments, other than payments made through an income withholding order or another mandatory process of previously ordered child support, during the previous twelve (12) months.
  - (C) The court issues a written finding that an income withholding order would cause an extraordinary hardship on the obligor.
- (2) The parties submit a written agreement that:
  - (A) meets the requirements under subsection (d);
  - (B) is approved by the court; and
  - (C) is entered into the record of the court.

(d) A written agreement described in subsection (c)(2) must meet the following requirements:



- (1) Contain the following:
    - (A) A statement that an income withholding order is not implemented immediately but that an income withholding order will be implemented if the:
      - (i) obligor's child support and arrearage payments become delinquent; or
      - (ii) obligor requests implementation of the income withholding order.
    - (B) A detailed description of an alternative payment arrangement between the parties to ensure the timely payment of child support.
  - (2) Contain a provision that the obligor shall provide current information to the court concerning the following:
    - (A) The name, address, and telephone number of the obligor's place of employment.
    - (B) Any health coverage available to the obligor as a benefit of employment or maintained by the obligor, including information on the:
      - (i) name of the carrier (as defined in IC 27-8-10-1);
      - (ii) health insurance policy, certificate, or contract number; and
      - (iii) if applicable, names and birth dates of the persons for whose benefit the obligor maintains health coverage under the health insurance policy, certificate, or contract.
  - (e) If possible, the court shall specify the date on which a stay of implementation of the income withholding order terminates automatically.
  - (f) In Title IV-D cases in which periodic payments of child support are ordered, modified, or enforced, the court shall order the obligor to inform the Title IV-D agency of the:
    - (1) name and address of the obligor's current income payor;
    - (2) obligor's access to health insurance coverage; and
    - (3) if applicable, obligor's health insurance policy information.
- As added by P.L.103-2007, SEC.23. Amended by P.L.80-2010, SEC.38.*

#### **IC 31-16-15-1**

##### **Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

#### **IC 31-16-15-2**

##### **Lifting stay of implementation of income withholding order**

Sec. 2. A court shall lift a stay of implementation of an income withholding order granted under section 0.5(c) of this chapter upon occurrence of one (1) or more of the following:

- (1) The obligor's support payment becomes delinquent.
- (2) The obligor requests implementation of the income withholding order.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.24.*

### **IC 31-16-15-2.5**

#### **Income withholding order issued by Title IV-D agency; implementation**

Sec. 2.5. (a) If, in a Title IV-D case, an income withholding order has not been issued with a support order under section 0.5 of this chapter, a Title IV-D agency may:

- (1) issue an income withholding order with the support order; and
- (2) after providing notice under section 3.5 of this chapter, implement the income withholding order unless the court:
  - (A) stays the implementation of the income withholding order under section 0.5(c) of this chapter; and
  - (B) provides a written finding of the stay in the support order.

(b) In a Title IV-D case in which the implementation of an income withholding order was stayed under section 0.5(c) of this chapter, the Title IV-D agency may:

- (1) after providing notice under section 3.5 of this chapter, lift the stay if the obligor's child support and arrearage payments are delinquent; or
- (2) lift the stay if the obligor requests implementation of the income withholding order.

(c) In a Title IV-D case, if:

- (1) an income withholding order was stayed under section 0.5(c) of this chapter; and
- (2) an obligor requests the implementation of the income withholding order;

the Title IV-D agency is not required to give notice under section 3.5 of this chapter before implementing the income withholding order.

(d) An income withholding order issued under subsection (a):

- (1) has the same force and effect; and
- (2) is enforceable in the same manner;

as an income withholding order issued by a court.

(e) The total amount required to be withheld under an income withholding order implemented under this section is the sum of:

- (1) the obligor's current child support obligation; plus
- (2) the amount of arrearage payment ordered by the court; plus
- (3) an additional amount as determined under subsection (f) for:
  - (A) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or
  - (B) any additional arrearage that:
    - (i) has not been adjudicated; and
    - (ii) accrues since the last adjudication of arrearage by the court.

(f) If an obligor subject to an income withholding order is in arrears, unless otherwise ordered by a court, the Title IV-D agency or its agent may increase the weekly amount withheld as follows:

- (1) If the arrearages are at least five hundred dollars (\$500) and less than three thousand dollars (\$3,000), an additional amount of up to twenty dollars (\$20).

(2) If the arrearages are at least three thousand dollars (\$3,000) and less than five thousand dollars (\$5,000), an additional amount of up to twenty-five dollars (\$25).

(3) If the arrearages are at least five thousand dollars (\$5,000) and less than ten thousand dollars (\$10,000), an additional amount of up to thirty dollars (\$30).

(4) If the arrearages are at least ten thousand dollars (\$10,000) and less than fifteen thousand dollars (\$15,000), an additional amount of up to thirty-five dollars (\$35).

(5) If the arrearages are at least fifteen thousand dollars (\$15,000) and less than twenty thousand dollars (\$20,000), an additional amount of up to forty dollars (\$40).

(6) If the arrearages are at least twenty thousand dollars (\$20,000) and less than twenty-five thousand dollars (\$25,000), an additional amount of up to forty-five dollars (\$45).

(7) If the arrearages are at least twenty-five thousand dollars (\$25,000), an additional amount of up to fifty dollars (\$50).

(g) A court is not bound by and is not required to consider the additional amounts described in subsection (f) when ordering, modifying, or enforcing periodic payments of child support.

*As added by P.L.103-2007, SEC.25.*

#### **IC 31-16-15-2.6**

##### **Income withholding order; payment in full**

Sec. 2.6. An income withholding order issued under this chapter remains in effect until a child support obligation, including current child support, child support arrearage, medical support, interest, and fees, is paid in full.

*As added by P.L.103-2007, SEC.26.*

#### **IC 31-16-15-2.7**

##### **Income withholding order; forms**

Sec. 2.7. (a) The bureau shall:

(1) prescribe standard forms for:

(A) an income withholding order; and

(B) a notice form; and

(2) make the forms listed in subdivision (1) available to:

(A) a court;

(B) a private attorney;

(C) an obligor; and

(D) an obligee.

(b) An income withholding order under this chapter must be issued in a form substantially similar to the form prescribed under subsection (a)(1)(A).

(c) An income withholding order form under subsection (a)(1)(A) must contain the following:

(1) The amount of income to be withheld.

(2) A statement that the total amount of income to be withheld is the sum of the following:

(A) The obligor's current child support obligation.

- (B) The amount of any child support arrearage ordered by the court.
- (C) An additional amount as determined under section 2.5(f) of this chapter for:
  - (i) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or
  - (ii) any additional arrearage that has not been adjudicated and accrues since the last adjudication of arrearage by the court.
- (D) A fee of two dollars (\$2) that must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.
- (3) A statement that the total amount withheld under the income withholding order plus the fee under subdivision (2)(D) may not exceed the maximum amount permitted under 15 U.S.C. 1673(b).
- (4) A statement that an income payor shall:
  - (A) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and
  - (B) report to the state central collection unit the date on which the income was withheld from the obligor's income.
- (5) A statement that if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor.
- (6) A statement that if the obligor has:
  - (A) more than one (1) income withholding order against the obligor; and
  - (B) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;an income payor shall honor all withholdings to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b).
- (7) A statement that the income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to orders for current child support.
- (8) A statement that the income payor may not distribute income as described under subdivision (7) in a manner that would result in one (1) of the current child support obligations not being honored.
- (9) A statement that the income payor shall forward the amount withheld for current support and any arrears to the state central collection unit with a statement identifying the:
  - (A) cause number for the obligee;
  - (B) name of the obligor;

- (C) name of the obligee with the applicable income withheld for each obligee forwarded from the income payor;
  - (D) Social Security number of each obligee; and
  - (E) Indiana support enforcement tracking system (ISETS) number for each obligee.
- (10) A statement that the income withholding order is binding upon the income payor until further notice by the Title IV-D agency.
- (11) A statement that if an income payor:
- (A) discharges the obligor from employment;
  - (B) refuses to employ the obligor;
  - (C) takes disciplinary action against the obligor employed by the income payor; or
  - (D) otherwise discriminates against the obligor;
- because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, the income payor is subject to a penalty of not more than five thousand dollars (\$5,000) payable to the state and recoverable in a civil action.
- (12) A statement that if an income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:
- (A) the accumulated amount the income payor should have withheld from the obligor's income; and
  - (B) any interest, attorney's fees, and costs.
- (13) A statement that an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes.
- (14) A statement that an income payor must:
- (A) notify the Title IV-D agency if the obligor:
    - (i) ceases employment with; or
    - (ii) no longer receives income from;the income payor, not later than ten (10) days after the date the obligor's employment or income ceases; and
  - (B) provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the Title IV-D agency.

*As added by P.L.103-2007, SEC.27. Amended by P.L.80-2010, SEC.39.*

### **IC 31-16-15-3**

#### **Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

### **IC 31-16-15-3.5**

#### **Income withholding order; notice**

Sec. 3.5. (a) Except as provided under section 2.5(c) of this chapter, a Title IV-D agency shall issue a notice of intent to withhold income to an obligor before the Title IV-D agency implements an income withholding order under section 2.5 of this chapter. The

notice is sufficient for all future income withholding until the child support obligation is fully satisfied.

(b) The notice under subsection (a) must contain the following:

(1) A statement that an income withholding order will be sent to all current and future income payors.

(2) If applicable, the amount of child support that the obligor is in arrears.

(3) A statement that the income shall be:

(A) withheld by a current and future income payor from the obligor's income for the payment of child support; and

(B) forwarded to the state central collection unit with a statement identifying the:

(i) cause number for the obligee;

(ii) name of the obligor;

(iii) name of the obligee with the applicable income withheld for each obligee forwarded from the income payor;

(iv) Social Security number of each obligee; and

(v) Indiana support enforcement tracking system (ISETS) number for each obligee.

(4) A statement that the total amount of income to be withheld by the Title IV-D agency under the income withholding order is the sum of:

(A) the obligor's current child support obligation; plus

(B) the amount of any arrearage payment ordered by the court; plus

(C) an additional amount as determined under section 2.5(f) of this chapter for:

(i) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

(ii) any additional arrearage that has not been adjudicated and accrues since the last adjudication of arrearage by the court; plus

(D) a fee of two dollars (\$2), which must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(5) A statement that:

(A) the total amount withheld under the income withholding order may not exceed the maximum amount permitted under 15 U.S.C. 1673(b);

(B) the income withholding order applies to the receipt of any current or subsequent income from a current or future income payor;

(C) the obligor may contest the Title IV-D agency's determination to implement an income withholding order by making written application to the Title IV-D agency not more than twenty (20) days after the date the notice under this section is mailed to the obligor;

(D) the only basis for contesting the implementation of an

income withholding order is a mistake of fact;

(E) if the obligor contests the Title IV-D agency's determination to implement the income withholding order, the Title IV-D agency shall schedule an administrative hearing;

(F) if the obligor does not contest the Title IV-D agency's determination to implement an income withholding order within the period of time required under section 4.3 of this chapter, the Title IV-D agency shall implement the income withholding order;

(G) an income payor shall:

(i) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and

(ii) report to the state central collection unit the date on which the income was withheld from the obligor's income;

(H) if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor;

(I) if the obligor has:

(i) more than one (1) income withholding order against the obligor; and

(ii) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;

an income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to a current income withholding order;

(J) an income payor shall honor all withholdings to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b);

(K) the income withholding order is binding upon the income payor until further notice by the Title IV-D agency;

(L) an income payor that:

(i) discharges the obligor from employment;

(ii) refuses to employ the obligor;

(iii) takes disciplinary action against the obligor employed by the income payor; or

(iv) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order is subject to a penalty not to exceed five thousand dollars (\$5,000) payable to the state and recoverable in a civil action;

(M) if an income payor fails to withhold income in accordance with the income withholding order, the income

payor is liable for:

- (i) the accumulated amount the income payor should have withheld from the obligor's income; and
  - (ii) any interest, attorney's fees, and costs;
- (N) an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes; and
- (O) the income payor must notify the Title IV-D agency if the obligor:

- (i) ceases employment with; or
  - (ii) no longer receives income from;
- the income payor, not later than ten (10) days after the date the obligor's employment or income ceases, and provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the Title IV-D agency.

(c) If the Title IV-D agency issues a notice of intent to withhold income to the obligor under this section, the Title IV-D agency is not required to provide further notice to continue to implement or amend the income withholding order unless the income withholding order is stayed by the court under section 0.5(c) of this chapter.

*As added by P.L.103-2007, SEC.28.*

#### **IC 31-16-15-4**

##### **Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

#### **IC 31-16-15-4.3**

##### **Income withholding order; contesting implementation**

Sec. 4.3. (a) An obligor may contest a Title IV-D agency's determination to implement an income withholding order under section 2.5 of this chapter by making a written application to the Title IV-D agency not more than twenty (20) days after the date the notice is mailed to the obligor.

(b) The only basis on which an obligor may contest the implementation of an income withholding order under section 2.5 of this chapter is mistake of fact.

(c) If an obligor does not contest the implementation of an income withholding order within the period described in subsection (a), the Title IV-D agency shall send the income withholding order to the income payor not more than fifteen (15) calendar days after:

- (1) the last date that the obligor has to contest the implementation of an income withholding order under subsection (a); or
- (2) if the income payor's address is not known on the date described under subdivision (1), the date the Title IV-D agency obtains the income payor's address.

(d) A Title IV-D agency shall:

- (1) not more than twenty-five (25) days after an obligor makes written application to contest an income withholding order



under subsection (a), hold a hearing to review the Title IV-D agency's determination to implement the income withholding order; and

(2) make a determination on the implementation of the income withholding order at the hearing.

(e) If the Title IV-D agency implements an income withholding order after a hearing under this section, the Title IV-D agency shall provide the income withholding order to each income payor as provided under section 6.5 of this chapter.

*As added by P.L.103-2007, SEC.29.*

#### **IC 31-16-15-4.5**

##### **National Medical Support Notice**

Sec. 4.5. (a) The bureau shall send notice to an employer, using the National Medical Support Notice described in 45 CFR 303.32, that:

(1) a parent ordered to pay support has been ordered to provide insurance coverage as part of the parent's employee benefit plan under IC 31-16-6-4; or

(2) an obligation to provide insurance coverage under subdivision (1) is no longer in effect.

(b) Upon receipt of the notice under subsection (a), the employer shall:

(1) respond to the notice in a timely fashion;

(2) transfer the National Medical Support Notice to the employer's health insurance plan within twenty (20) days after the date of the National Medical Support Notice; and

(3) abide by the terms of establishing insurance coverage as required by the notice.

*As added by P.L.86-2002, SEC.12. Amended by P.L.145-2006, SEC.239; P.L.103-2007, SEC.30; P.L.80-2010, SEC.40.*

#### **IC 31-16-15-5**

##### **Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

#### **IC 31-16-15-5.5**

##### **Income withholding order; lifting stay of implementation**

Sec. 5.5. (a) An obligor or an obligee may file a petition to lift a stay of implementation of an income withholding order.

(b) If an obligee files a petition under subsection (a), the court shall:

(1) set a date for a hearing on the petition; and

(2) send a written notice of the hearing to lift the stay of implementation of the income withholding order to the obligor in accordance with subsection (c).

The court must set a date for the hearing that is not more than twenty (20) days after the date the petition is filed.

(c) The notice under subsection (b)(2) must include the following:

(1) A statement as to whether the obligor is delinquent in the

payment of child support.

(2) If applicable, the amount of child support the obligor is in arrears.

(3) A statement that if the petition is granted, the obligor's income shall be:

(A) withheld by the court for the payment of child support; and

(B) forwarded to the state central collection unit with a statement identifying:

(i) the cause number for each obligee;

(ii) the name of each obligor;

(iii) the name of each obligee with the amount of the withheld income forwarded by the income payor;

(iv) the Social Security number of each obligor; and

(v) the Indiana support enforcement tracking system (ISETS) number for each obligee.

(4) The following statements:

(A) That the total amount of income to be withheld under an income withholding order from the obligor's income is the sum of:

(i) the obligor's current child support obligation; plus

(ii) the amount of arrearage payment ordered by the court; plus

(iii) a fee of two dollars (\$2), which must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(B) That the total amount of income withheld may not exceed the maximum amount permitted by 15 U.S.C. 1673(b).

(C) That the income withholding order applies to the receipt of any current or subsequent income.

(D) That the only basis for contesting the petition to lift the stay of implementation of the income withholding order is a mistake of fact.

(E) That an obligor may contest the court's lifting the stay of the income withholding order by appearing at the hearing scheduled by the court on the petition to lift the stay.

(F) That if the obligor does not appear at the hearing, the court shall implement the income withholding order.

(G) That an income payor shall:

(i) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and

(ii) report to the state central collection unit the date on which the income was withheld from the obligor's income.

(H) That if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments

to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor.

(I) That if an obligor has:

- (i) more than one (1) income withholding order against the obligor; and
- (ii) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;

the income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to a current income withholding order.

(J) That an income payor shall honor all withholding to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b).

(K) That the income withholding is binding upon the income payor until further notice by the court.

(L) That an income payor that:

- (i) discharges the obligor from employment;
- (ii) refuses to employ the obligor;
- (iii) takes disciplinary action against the obligor employed by the income payor; or
- (iv) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, is subject to a penalty not to exceed five thousand dollars (\$5,000) payable to the state and recoverable in a civil action.

(M) That if the income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:

- (i) the accumulated amount the income payor should have withheld from the obligor's income; and
- (ii) any interest, attorney's fees, and costs.

(N) That an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes.

(O) That the income payor must notify the court if the obligor:

- (i) ceases employment with; or
- (ii) no longer receives income from;

the income payor not later than ten (10) days after the date the obligor's employment or income ceases and provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the court.

(d) At a hearing under this section, the court shall grant the petition to lift the stay of implementation of the income withholding order if the obligor has failed to comply with the provisions of the support order, unless the court finds that the conditions under section 0.5(c)(2) of this chapter have been met.

(e) If the obligor files a petition to lift the stay of implementation of the income withholding order:

- (1) a hearing is not required; and
- (2) the court shall grant the petition.

(f) If the court grants the petition to lift the stay of implementation of the income withholding order, the court shall:

- (1) implement the income withholding order; and
- (2) send the income withholding order to the obligor's income payor.

*As added by P.L.103-2007, SEC.31.*

#### **IC 31-16-15-6**

##### **Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

#### **IC 31-16-15-6.5**

##### **Serving an income withholding order**

Sec. 6.5. A court or Title IV-D agency may serve an income withholding order on an income payor by:

- (1) first class mail;
- (2) facsimile transmission; or
- (3) other electronic means approved by the Title IV-D agency.

*As added by P.L.103-2007, SEC.32.*

#### **IC 31-16-15-7**

##### **Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

#### **IC 31-16-15-7.5**

##### **Income payor duties**

Sec. 7.5. (a) An income payor that is required to withhold income under this chapter shall:

- (1) forward income withheld for the payment of current or past due child support as directed by an income withholding order to the state central collection unit at the time that an obligor is paid;
- (2) include a statement that identifies the:
  - (A) cause number for each obligee;
  - (B) Indiana support enforcement tracking system (ISETS) case number for each obligee;
  - (C) name of each obligor and the obligor's Social Security number;
  - (D) name of each obligee with the amount of the withheld income forwarded by the income payor; and
  - (E) date on which the amount was withheld from the obligor's income; and
- (3) begin withholding income not later than the first pay date after fourteen (14) days following the date the order for income withholding is received by the income payor.

(b) An income payor may retain, in addition to the amount of

income forwarded to the state central collection unit, a fee of not more than two dollars (\$2) each time the income payor forwards income to the state central collection unit. If an income payor retains a fee under this subsection, the income payor shall reduce the amount of income withheld for the payment of current and past due child support, if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).

*As added by P.L.103-2007, SEC.33. Amended by P.L.80-2010, SEC.41.*

**IC 31-16-15-8**

**Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

**IC 31-16-15-9**

**Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

**IC 31-16-15-10**

**Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

**IC 31-16-15-11**

**Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

**IC 31-16-15-12**

**Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

**IC 31-16-15-13**

**Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

**IC 31-16-15-14**

**Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

**IC 31-16-15-15**

**Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

**IC 31-16-15-16**

**Combination of withheld amounts for multiple obligors in single payment; multiple withholdings paid electronically; civil penalty**

Sec. 16. (a) Except as provided in subsection (b), if the income payor is required to withhold income from more than one (1) obligor under this chapter, the income payor may combine in a single payment the withheld amounts for all obligors who have been ordered to pay to the state central collection unit established by

IC 31-25-3-1 if the income payor separately identifies the part of the single payment that is attributable to each individual obligor.

(b) If the income payor:

- (1) is required to withhold income from more than one (1) obligor under this chapter; and
- (2) employs more than fifty (50) employees;

the income payor shall make payments to the state central collection unit established by IC 31-25-3-1 through electronic funds transfer or through electronic or Internet access made available by the state central collection unit.

(c) The department of child services shall assess a civil penalty of twenty-five dollars (\$25) per obligor per pay period against an income payor that:

- (1) is required to make a payment under subsection (b); and
- (2) does not make the payment through electronic funds transfer or other means described in subsection (b).

The department shall deposit the penalties into the state general fund.  
*As added by P.L.1-1997, SEC.8. Amended by P.L.86-2002, SEC.13; P.L.234-2005, SEC.91; P.L.148-2006, SEC.24; P.L.103-2007, SEC.34.*

#### **IC 31-16-15-17**

##### **Multiple withholding orders against single obligor; pro rata distribution of withheld earnings**

Sec. 17. (a) If there is more than one (1) order for withholding against a single obligor under this chapter and the obligor has insufficient disposable earnings to pay the amount required by all the orders, the income payor shall:

- (1) honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b); and
- (2) distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to orders for current child support.

(b) The income payor may not distribute income under subsection (a) in a manner that would result in one (1) of the current child support obligations not being honored.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.35; P.L.80-2010, SEC.42.*

#### **IC 31-16-15-18**

##### **Notice by income payor following cessation of employment or income**

Sec. 18. The income payor shall:

- (1) notify:
    - (A) the Title IV-D agency in a case arising under section 2.5 of this chapter; or
    - (B) the court in a case arising under section 0.5, 2, or 5.5 of this chapter;
- when the obligor ceases to receive income not later than ten

- (10) days after the employment or income ceases; and
- (2) provide:
  - (A) the obligor's last known address; and
  - (B) the name and address of the obligor's new income payor if known.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.36.*

#### **IC 31-16-15-19**

##### **Severance pay, accumulated sick pay, vacation pay, accumulated commissions, bonuses, or other lump sum payments; withholding of support arrearages**

Sec. 19. (a) If an obligor:

- (1) is entitled to net income in the form of:
  - (A) severance pay;
  - (B) accumulated sick pay;
  - (C) vacation pay;
  - (D) accumulated commissions;
  - (E) a bonus payment in addition to regular earned income;or
- (F) other lump sum payment; and

(2) owes an amount of child support that is in arrears; the income payor shall withhold the amount in arrears or the product computed under subsection (b), whichever is less, up to the maximum permitted under 15 U.S.C. 1673(b).

(b) The income payor shall multiply:

- (1) the amount of support the obligor is required to pay each week; by
- (2) the number of weeks represented by the lump sum payment.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.37.*

#### **IC 31-16-15-20**

##### **Payments by clerk or state central collection unit to persons entitled to receive child support**

Sec. 20. (a) This subsection applies before January 1, 2007. The clerk of the court shall:

- (1) pay the income forwarded by the income payor to the person entitled to receive child support payments; and
- (2) maintain records to monitor and document the receipt and payment of income under this chapter.

(b) Beginning January 1, 2007, the clerk of the court, for cash payments, and the state central collection unit, for noncash payments, shall:

- (1) pay the income forwarded by the income payor to the person entitled to receive child support payments; and
- (2) maintain records to monitor and document the receipt and payment of income under this chapter.

*As added by P.L.1-1997, SEC.8. Amended by P.L.148-2006, SEC.25.*

#### **IC 31-16-15-21**

## **Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

### **IC 31-16-15-22**

#### **Termination of income withholding**

Sec. 22. (a) An income withholding order under section 0.5 or 2.5 of this chapter (or IC 31-2-10-7 before its repeal) terminates when both of the following occur:

(1) The duty to support a child ceases under IC 31-14 or IC 31-16-2 through IC 31-16-12.

(2) No child support arrearage exists.

(b) A court or Title IV-D agency may terminate income withholding when the whereabouts of the child and the child's custodial parent are unknown, preventing the forwarding of child support payments.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.38.*

### **IC 31-16-15-23**

#### **Liability of income payors**

Sec. 23. (a) If an income payor fails to forward the money required by an income withholding order, the Title IV-D agency shall send the income payor, by certified mail, a notice of failure to comply. If the income payor fails to forward the money required by an income withholding order within thirty (30) days after receipt of the notice of failure to comply, the income payor is liable for the amount the income payor fails to forward.

(b) An income payor described in subsection (a) is liable to the:

(1) obligee for the amount of income not paid in compliance with the income withholding order, including an amount the obligor is required to pay for health insurance coverage; and

(2) obligor for:

(A) the amount of income withheld and not paid as required under the income withholding order;

(B) an amount equal to the interest that accrues according to the interest percentage that accrues on judgments; and

(C) reasonable attorney's fees and court costs.

(c) An income payor that:

(1) receives an income withholding order from a court or Title IV-D agency; and

(2) fails to comply with the income withholding order;

may be liable for contempt of court.

(d) If an obligor has filed a claim for worker's compensation, the income payor of the obligor shall send a copy of the income withholding order to the income payor's insurance carrier if the income payor has an insurance carrier with whom the claim has been filed in order to continue the ordered withholding of income.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.39.*

### **IC 31-16-15-23.5**

#### **Normal pay and distribution cycles unaffected**



Sec. 23.5. An income payor is not required to vary the income payor's normal pay and distribution cycles in order to comply with this chapter.

*As added by P.L.80-2010, SEC.43.*

#### **IC 31-16-15-23.7**

##### **Immunity from civil liability**

Sec. 23.7. An income payor is not subject to civil liability for income withheld and paid to an obligee, the Title IV-D agency, or a state central collection unit in accordance with an income withholding order that appears regular on its face.

*As added by P.L.80-2010, SEC.44.*

#### **IC 31-16-15-24**

##### **Repealed**

*(Repealed by P.L.103-2007, SEC.51.)*

#### **IC 31-16-15-25**

##### **Income payor penalties**

Sec. 25. (a) An income payor that:

- (1) discharges from employment an obligor;
- (2) refuses to employ an obligor;
- (3) takes disciplinary action against an obligor employed by the income payor; or
- (4) otherwise discriminates against an obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, is subject to a penalty not to exceed five thousand dollars (\$5,000) payable to the state and recoverable in a civil action. An obligor or the Title IV-D agency may bring an action to enforce a penalty under this subsection.

(b) The collection of money under this section does not affect:

- (1) the obligor's right to damages under IC 24-4.5-5-202; or
- (2) any other legal remedy available to the obligor;

because of discharge from employment, refusal of employment, or disciplinary action.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.40.*

#### **IC 31-16-15-26**

##### **New income payor**

Sec. 26. If the Title IV-D agency or the court becomes aware that the obligor has a new income payor after income withholding has been implemented:

- (1) if the order is an income withholding order implemented under section 2.5 of this chapter, the Title IV-D agency; or
- (2) if the order is an income withholding order implemented under section 0.5 of this chapter or an income withholding order implemented after a stay has been lifted under section 5.5 of this chapter, the court or the Title IV-D agency;

shall send the income withholding order to the new income payor.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.41.*

#### **IC 31-16-15-27**

##### **Priority of order over other claims**

Sec. 27. An income withholding order under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes that are required to be withheld for the calendar year in which the income is subject to a withholding order.

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

#### **IC 31-16-15-28**

##### **Full faith and credit**

Sec. 28. The courts and the Title IV-D agency shall give full faith and credit to income withholding orders that are issued in other states.

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

#### **IC 31-16-15-29**

##### **Registration of foreign support orders**

Sec. 29. (a) The registration of a foreign support order as provided in IC 31-18-6 is sufficient for the implementation of an income withholding order by the Title IV-D agency.

(b) The Title IV-D agency shall issue a notice in accordance with section 3.5 of this chapter of the implementation of a foreign support order to the obligor.

*As added by P.L.103-2007, SEC.42.*

#### **IC 31-16-15-30**

##### **Title IV-D agency civil liability**

Sec. 30. A Title IV-D agency or an agent of a Title IV-D agency acting within the scope of the agent's employment is not subject to any civil liability for income withheld and paid to an obligee, the Title IV-D agency, or the state central collection unit in accordance with an income withholding order.

*As added by P.L.103-2007, SEC.43.*

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

### **Chapter 16. Enforceable Judgment Against a Person Delinquent in Payment of Child Support**

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

### **Supplemental remedies**

Sec. 1. This chapter supplements other remedies available for the enforcement of a support order.

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

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

### **Delinquent payment as judgment against obligor**

Sec. 2. A payment that is:

- (1) required under a support order; and
- (2) delinquent;

shall be treated as a judgment against the obligor for the delinquent amount.

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

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

### **Judgment as lien; priority; perfection**

Sec. 3. (a) A lien is created against the real and personal property of the obligor in the amount of a judgment described in section 2 of this chapter.

(b) A person holding a lien created by a judgment described in section 2 of this chapter:

- (1) has the priority of an unperfected secured creditor in any enforcement proceeding instituted against the property; and
- (2) may perfect the lien in the same manner as liens arising from other civil judgments are perfected.

*As added by P.L.1-1997, SEC.8. Amended by P.L.3-2008, SEC.233.*

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

### **Mode of enforcement; disputed amount**

Sec. 4. (a) An obligee may enforce a judgment created under section 2 of this chapter (or IC 31-2-11-8 before its repeal) in the same manner as other civil judgments are enforced.

(b) If in a proceeding to enforce a judgment created under section 2 of this chapter (or IC 31-2-11-8 before its repeal) an obligor or an income payor disputes the amount that constitutes a judgment, the court with jurisdiction over the enforcement proceeding may conduct a hearing to determine the amount of delinquent support that is a judgment.

*As added by P.L.1-1997, SEC.8. Amended by P.L.3-2008, SEC.234.*

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

### **Recognition and enforcement of judgments**

Sec. 5. The courts shall recognize and enforce:

- (1) judgments created under section 2 of this chapter (or IC 31-2-11-8 before its repeal); and

(2) judgments for delinquent support payments that are created under the laws of another state.

*As added by P.L.1-1997, SEC.8. Amended by P.L.3-2008, SEC.235.*

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

**Modification of obligor's duty to pay**

Sec. 6. (a) Except as provided in:

(1) subsection (b); or

(2) IC 31-14-19-1;

a court may not retroactively modify an obligor's duty to pay a delinquent support payment.

(b) A court with jurisdiction over a support order may modify an obligor's duty to pay a support payment that becomes due:

(1) after notice of the petition to modify the support order has been given either directly or through the appropriate agent to:

(A) the obligee; or

(B) if the obligee is the petitioner, the obligor; and

(2) before a final order concerning the petition for modification is entered.

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

## **IC 31-16-17**

### **Chapter 17. Liability for Support of Parents**

#### **IC 31-16-17-1**

##### **Duty to furnish support for parents**

Sec. 1. Any individual:

(1) whose father or mother provided the individual with necessary food, shelter, clothing, medical attention, and education until the individual reached sixteen (16) years of age; and

(2) who is financially able due to the individual's own property, income, or earnings;

shall contribute to the support of the individual's parents if either parent is financially unable to furnish the parent's own necessary food, clothing, shelter, and medical attention. The individual shall also provide financial support for the parent's burial if the parent's burial is provided under IC 12-20-16-12.

*As added by P.L.1-1997, SEC.8. Amended by P.L.139-2000, SEC.4.*

#### **IC 31-16-17-2**

##### **Action for support; parties plaintiff**

Sec. 2. An action for support of a parent may be instituted against a child for violation of the duty to support a parent as required by section 1 of this chapter by filing a verified complaint in a circuit or superior court of the county of the residence of either parent. The plaintiff or plaintiffs must be:

(1) the parent or parents; or

(2) the:

(A) prosecuting attorney of the judicial circuit;

(B) county director of the county office of family and children of the county in which the parent resides;

(C) township trustee of the township in which the parent resides; or

(D) division of family resources;

on behalf of the parent.

*As added by P.L.1-1997, SEC.8. Amended by P.L.3-2008, SEC.236.*

#### **IC 31-16-17-3**

##### **Averments of complaint**

Sec. 3. The complaint must allege definite specific facts to establish:

(1) the duty to support; and

(2) the violation of the duty to support.

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

#### **IC 31-16-17-4**

##### **Standing; costs**

Sec. 4. (a) Any of the following may prosecute a civil action for support of a parent:

(1) The parent.

- (2) The township trustee.
- (3) The county director of the county office of family and children.
- (4) The director of the division of family resources.
- (5) The prosecuting attorney.
- (b) Costs may not be taxed against:
  - (1) the prosecuting attorney;
  - (2) the county director of the county office of family and children;
  - (3) the township trustee; or
  - (4) the director of the division of family resources.

*As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.240.*

### **IC 31-16-17-5**

#### **Attorney's fees**

Sec. 5. In an action brought under this chapter in which:

- (1) the parent is the plaintiff; and
- (2) judgment is entered for the plaintiff;

the plaintiff is also entitled to recover reasonable attorney's fees, which the court trying the action shall enter as a part of the judgment.

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

### **IC 31-16-17-6**

#### **Pleading; service of notice on defendant**

Sec. 6. Notice shall be served upon a defendant and issues shall be made upon the verified complaint as in other civil actions.

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

### **IC 31-16-17-7**

#### **Additional parties defendant; admissibility of evidence**

Sec. 7. (a) The court on the court's own motion may order other children made additional parties defendant.

(b) In the trial of the action, evidence may be admitted concerning support and care furnished to or by children other than the defendants.

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

### **IC 31-16-17-8**

#### **Appeal and review**

Sec. 8. (a) If:

- (1) the finding of the court; or
- (2) the verdict of the jury;

is for or against the defendant, each party aggrieved by the finding or verdict may file a motion for a new trial and other proceedings that are proper in other civil actions.

(b) Appeals may be taken as in other civil actions.

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

### **IC 31-16-17-9**

**Jury verdict**

Sec. 9. If the trial is by jury, the verdict of the jury must state only that the jury finds in favor of each party that should recover.

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

**IC 31-16-17-10****Judgment and order**

Sec. 10. If the verdict or finding of the court is against a defendant, the court shall:

- (1) enter judgment against the defendant or defendants; and
- (2) order that adequate provision be made for the support of the parent or parents, taking into consideration:
  - (A) the needs of the parent or parents;
  - (B) the ability of the defendant to pay; and
  - (C) the evidence given in the action concerning treatment given the child by the parent when obligated to support the child.

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

**IC 31-16-17-11****Continuing order; modification; execution**

Sec. 11. (a) An order of the court under section 10 of this chapter is a continuing order. The court has jurisdiction to modify the order with respect to:

- (1) the order's continuation;
  - (2) the amount of support; and
  - (3) the method of payment at any time during the need of the parent or during the financial ability of the child.
- (b) The order:
- (1) must be for the payment of periodical amounts, equal or varying; and
  - (2) may be apportioned in different amounts between the respective children who may be parties defendant to the proceedings.
- (c) Execution of the order:
- (1) may issue on the judgment if an amount is due on the judgment; and
  - (2) shall be executed without any relief from valuation, appraisal, or exemption laws.

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

**IC 31-16-17-12****Contempt**

Sec. 12. If a defendant is in default for failure to comply with the order and judgment of the court, the same process may be used for contempt of court as in divorce proceedings.

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

**IC 31-16-18**

**Repealed**

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



## **IC 31-16-19**

### **Chapter 19. Requirement That Support for Certain Dependents Be Paid Into Court or to Title IV-D Agency**

## **IC 31-16-19-1**

### **Payment into court or agency**

Sec. 1. (a) If:

(1) an individual, by the terms of a court order or decree, is ordered to pay support money to or for the dependent wife, husband, father, or mother of the individual; and

(2) the:

(A) dependents are being supported in whole or in part by public money; or

(B) parent of the dependents has sought the assistance of the agency designated to administer Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669);

the court shall order that the payment of the support money be made to the clerk of the circuit court of the county in which the decree or order is entered.

(b) If the support order is for a child:

(1) who qualifies for assistance under IC 12-14-1-1; or

(2) whose parent has sought the assistance of the agency designated to administer Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669);

the court shall order that the payment of the support be made to the agency of state government designated to administer Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) in compliance with the federal regulations established for the administration of Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

(c) The order must contain:

(1) the date when the first support payment is to be made; and

(2) the frequency of the payments.

*As added by P.L.1-1997, SEC.8. Amended by P.L.148-2006, SEC.26.*

## **IC 31-16-19-2**

### **Payments into court; accounting system**

Sec. 2. If the court enters a decree or an order under section 1(a) of this chapter, the clerk shall:

(1) immediately set up an appropriate account system in the case; and

(2) maintain a continuous record of the payments to each account.

*As added by P.L.1-1997, SEC.8. Amended by P.L.148-2006, SEC.27.*

## **IC 31-16-20**

### **Chapter 20. Transfer of Jurisdiction Over Support Orders**

#### **IC 31-16-20-1**

##### **Application of chapter**

Sec. 1. This chapter applies whenever:

(1) there is pending in an Indiana court an order requiring a parent to make regular payments for the support of the parent's children:

(A) subsequent to the dissolution of the marriage of the parents of the children;

(B) as a result of a paternity action under IC 31-14 (or IC 31-6-6.1 before its repeal);

(C) as a result of a legal separation action under IC 31-15-3; or

(D) as a result of a child support action under IC 31-16-2; and

(2) it is shown to the court in which the order is pending that:

(A) the parent or other person rightfully having custody of the children is residing in a different county in Indiana from the county in which the:

(i) dissolution;

(ii) order under IC 31-14 (or IC 31-6-6.1 before its repeal);

(iii) order under IC 31-15-3; or

(iv) order under IC 31-16-2;

was obtained;

(B) the other parent of the children:

(i) no longer resides; or

(ii) is not regularly found;

in the county in which the dissolution, order under IC 31-14 (or IC 31-6-6.1 before its repeal), order under IC 31-15-3, or order under IC 31-16-2 was obtained; and

(C) it would be in the best interests of the children.

*As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.12.*

#### **IC 31-16-20-2**

##### **Order of transfer of proceedings**

Sec. 2. The court may order the proceedings with:

(1) all papers and files pertaining to the order for support; and

(2) certified copies of all orders for support;

transferred to the court having jurisdiction over such matters in the county in which the parent or other person having custody of the children is residing.

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

#### **IC 31-16-20-3**

##### **Acceptance of proceedings by transferee court**

Sec. 3. The court to which the proceedings are transferred:

(1) shall accept the proceedings; and

(2) thereafter has jurisdiction over the children and matters

relating to their support by the parent so ordered.  
*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-20-4**

##### **Docket; civil costs fee**

Sec. 4. The proceedings that are transferred shall be docketed as other civil matters are docketed, and a civil costs fee as provided in IC 33-37-4-4 shall be collected.

*As added by P.L.1-1997, SEC.8. Amended by P.L.98-2004, SEC.102.*

#### **IC 31-16-20-5**

##### **Hearing requirement; contents of petition; notice**

Sec. 5. (a) Except as provided in section 6 of this chapter, the order for the transfer of the proceedings may be made only after a hearing is held on a petition filed by or on behalf of the parent or other person having custody of the children.

(b) The petition must:

(1) set forth:

(A) the facts upon which the petition is based; and

(B) the reasons for requesting the transfer of the proceedings; and

(2) be verified.

(c) Notice shall be issued on the petition to the other parent notifying the other parent of:

(1) the pendency of the petition; and

(2) the time and place where the hearing will be heard.

(d) The hearing court shall:

(1) advance the hearing on the docket; and

(2) promptly hold the hearing.

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

#### **IC 31-16-20-6**

##### **Transfer without notice and hearing**

Sec. 6. A court may enter an order for transfer of the proceedings without notice and a hearing if the petition required under section 5 of this chapter is:

(1) a joint petition; and

(2) filed on behalf of and verified by:

(A) the custodial parent or a person having custody of the children; and

(B) the noncustodial parent.

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

#### **IC 31-16-20-7**

##### **Application of chapter; multiple transfers**

Sec. 7. (a) This chapter applies to proceedings pending in:

(1) the court in which the dissolution was obtained; or

(2) any other court to which the proceedings have been transferred.

(b) Any number of transfers may be made, as the best interests of

the children require.

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

## **IC 31-16-21**

### **Chapter 21. Annual Fee Payable to Court in Addition to Support Payments**

#### **IC 31-16-21-1**

##### **Payment; contempt**

Sec. 1. (a) Whenever in any court proceeding an order is in force for the support and maintenance of the other party to the proceeding, the individual required to pay the support shall pay the support.

(b) The clerk, if the payment is in cash, or the state central collection unit, for all other forms of payment, shall collect from the individual, in addition to the payments, the fee specified in IC 33-37-5-6.

(c) The clerk may collect any unpaid fee in a proceeding for contempt.

(d) The state central collection unit may collect any unpaid fee through any lawful means, including income withholding.

*As added by P.L.1-1997, SEC.8. Amended by P.L.98-2004, SEC.103; P.L.148-2006, SEC.28.*

#### **IC 31-16-21-2**

##### **Court ordered provision for payment**

Sec. 2. The court entering an order described in section 1(a) of this chapter shall include a provision in the order that requires the individual to pay the support and maintenance fee.

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

#### **IC 31-16-21-3**

##### **Supplemental remedies**

Sec. 3. This chapter is supplemental to all other statutes relating to support payments.

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