

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

### **Chapter 4. Parenting Time Rights of Noncustodial Parent**

#### **IC 31-17-4-1**

##### **Parenting time rights; in chambers interview of child**

Sec. 1. (a) A parent not granted custody of the child is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

(b) The court may interview the child in chambers to assist the court in determining the child's perception of whether parenting time by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

(c) The court may permit counsel to be present at the interview. If counsel is present:

- (1) a record may be made of the interview; and
- (2) the interview may be made part of the record for purposes of appeal.

*As added by P.L.1-1997, SEC.9. Amended by P.L.15-2004, SEC.2; P.L.68-2005, SEC.45.*

#### **IC 31-17-4-2**

##### **Modification or denial; restriction of parenting time rights**

Sec. 2. The court may modify an order granting or denying parenting time rights whenever modification would serve the best interests of the child. However, the court shall not restrict a parent's parenting time rights unless the court finds that the parenting time might endanger the child's physical health or significantly impair the child's emotional development.

*As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.46.*

#### **IC 31-17-4-2.5**

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

Sec. 2.5. The court may provide in:

- (1) a parenting time order; or
- (2) a modification to a parenting time order;

for the security, bond, or other guarantee that is satisfactory to the court to secure enforcement of the provisions of the parenting time order.

*As added by P.L.171-2001, SEC.13. Amended by P.L.68-2005, SEC.47.*

#### **IC 31-17-4-3**

##### **Attorney's fees, court costs, and litigation expenses**

Sec. 3. (a) In any action filed to enforce or modify an order granting or denying parenting time rights, a court may award:

- (1) reasonable attorney's fees;
- (2) court costs; and
- (3) other reasonable expenses of litigation.

(b) In determining whether to award reasonable attorney's fees, court costs, and other reasonable expenses of litigation, the court may consider among other factors:

- (1) whether the petitioner substantially prevailed and whether the court found that the respondent knowingly or intentionally violated an order granting or denying rights; and
- (2) whether the respondent substantially prevailed and the court found that the action was frivolous or vexatious.

*As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.48.*

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

##### **Permanent injunction against custodial parent**

Sec. 4. A noncustodial parent who:

- (1) has been granted parenting time rights with a child who lives with the custodial parent;
  - (2) regularly pays support ordered by a court for the child; and
  - (3) is barred by a custodial parent from exercising parenting time rights ordered for the noncustodial parent and the child;
- may file, in the court that has jurisdiction over the dissolution of marriage, an application for an injunction against the custodial parent under Rule 65 of the Indiana Rules of Trial Procedure.

*As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.49.*

#### **IC 31-17-4-5**

##### **Temporary restraining order against custodial parent**

Sec. 5. (a) If an application for an injunction has been filed under section 4 of this chapter (or IC 31-1-11.5-26 before its repeal), the court may grant, without notice, upon affidavit of the noncustodial parent, a temporary restraining order restraining the custodial parent from further violation of the parenting time order.

(b) In the affidavit, the noncustodial parent must state under penalties for perjury that:

- (1) the noncustodial parent has been granted parenting time rights with the child; and
- (2) the noncustodial parent regularly pays the support ordered by a court for the child.

*As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.50.*

#### **IC 31-17-4-6**

##### **Hearing**

Sec. 6. A hearing upon the restraining order must be held at the earliest convenience of the court.

*As added by P.L.1-1997, SEC.9.*

#### **IC 31-17-4-7**

##### **Security**

Sec. 7. (a) This section does not apply to an order under section 2.5 of this chapter.

(b) A court may not require an applicant for a temporary restraining order or an injunction under section 4 of this chapter (or

IC 31-1-11.5-26 before its repeal) to give security.  
*As added by P.L.1-1997, SEC.9. Amended by P.L.171-2001, SEC.14.*

#### **IC 31-17-4-8**

##### **Contempt**

Sec. 8. A court that finds an intentional violation without justifiable cause by a custodial parent of an injunction or a temporary restraining order issued under this chapter (or IC 31-1-11.5-26 before its repeal):

- (1) shall find the custodial parent in contempt of court;
- (2) shall order the exercise of parenting time that was not exercised due to the violation under this section at a time the court considers compatible with the schedules of the noncustodial parent and the child;
- (3) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and
- (4) may order the custodial parent to perform community restitution or service without compensation in a manner specified by the court.

*As added by P.L.1-1997, SEC.9. Amended by P.L.32-2000, SEC.19; P.L.68-2005, SEC.51.*

#### **IC 31-17-4-9**

##### **Additional remedies**

Sec. 9. The remedies in this chapter are in addition to and do not limit other civil or criminal remedies available to the noncustodial parent.

*As added by P.L.1-1997, SEC.9.*

#### **IC 31-17-4-10**

##### **Missed parenting time; parent in military**

Sec. 10. A noncustodial parent who misses parenting time as the result of participation in an activity of:

- (1) the Indiana National Guard; or
- (2) a reserve component of the armed forces of the United States;

may make up the lost parenting time as provided in IC 10-16-7-22.

*As added by P.L.103-1997, SEC.4. Amended by P.L.2-2003, SEC.72; P.L.68-2005, SEC.52.*

#### **IC 31-17-4-11**

##### **Submissions to the court; court requests for information**

Sec. 11. (a) If a person files a petition to establish or modify parenting time with a child, any person who:

- (1) is a party to the parenting time proceeding; and
- (2) has knowledge that:
  - (A) a party to the parenting time proceeding has been determined to be a perpetrator of a substantiated report of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

shall submit to the court in writing under seal that a party to the parenting time proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D).

(b) A court reviewing a petition to establish or modify parenting time of a child may request information from the department of child services regarding a petition or proceeding described in subsection (a)(2). The department shall provide a response under seal to the court's request for information not later than ten (10) days after the department receives the court's request for the information.

*As added by P.L.239-2013, SEC.5.*