

IC 31-18-3

Chapter 3. Civil Provisions of General Application

IC 31-18-3-1

Proceedings under this article

Sec. 1. (a) Except as otherwise provided in this article, this chapter applies to all proceedings under this article.

(b) this article provides for the following proceedings:

- (1) Establishment of an order for spousal support or child support under IC 31-18-4.
- (2) Enforcement of a support order and an income withholding order of another state without registration under IC 31-18-5.
- (3) Registration of an order for spousal support or child support of another state for enforcement under IC 31-18-6.
- (4) Modification of an order for child support or spousal support issued by an Indiana tribunal under IC 31-18-2.
- (5) Registration of an order for child support of another state for modification under IC 31-18-6.
- (6) Determination of paternity under IC 31-18-7.
- (7) Assertion of jurisdiction over nonresidents under IC 31-18-2.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this article by filing a petition or comparable pleading in:

- (1) an initiating tribunal for forwarding to a responding tribunal; or
- (2) a tribunal of another state that has or is able to obtain personal jurisdiction over the respondent.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-2

Action by minor parent

Sec. 2. A parent who is less than eighteen (18) years of age or a guardian or other legal representative of the minor parent may maintain a proceeding:

- (1) on behalf of; or
- (2) for the benefit of;

the minor parent's child.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-3

Application of law of this state

Sec. 3. Except as otherwise provided by this article, a responding Indiana tribunal:

- (1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in Indiana and:
 - (A) may exercise all powers; and
 - (B) provide all remedies;available in the proceedings; and

- (2) shall determine the duty of support and the amount payable under the child support guidelines adopted by the Indiana supreme court and any other relevant Indiana law.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-4

Duties of initiating tribunal

Sec. 4. (a) Upon the filing of a petition authorized by this article, an initiating Indiana tribunal shall forward three (3) copies of the petition and its accompanying documents to:

- (1) the responding tribunal; or
- (2) an appropriate support enforcement agency in the responding state.

However, if the identity of the responding tribunal is unknown, the copies must be forwarded to the state information agency of the responding state with a request for the copies to be forwarded to the appropriate tribunal and for receipt to be acknowledged.

(b) If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to the Uniform Interstate Family Support Act, an Indiana tribunal may issue a certificate or other documents and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.20.

IC 31-18-3-5

Duties and powers of responding tribunal

Sec. 5. (a) When a responding Indiana tribunal receives a petition or comparable pleading from an initiating tribunal or directly under section 1(c) of this chapter, the responding tribunal shall:

- (1) file the petition or pleading; and
- (2) notify the petitioner by first class mail of the location and date that the petition or comparable pleading was filed.

(b) A responding Indiana tribunal, to the extent otherwise authorized by law, may do one (1) or more of the following:

- (1) Issue or enforce a support order, modify a child support order, or enter a judgment to establish paternity.
- (2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance.
- (3) Order income withholding.
- (4) Determine the amount of any arrearages and specify a method of payment.
- (5) Enforce orders by civil or criminal contempt, or both.
- (6) Set aside property for satisfaction of the support order.
- (7) Place liens and order execution on the obligor's property.
- (8) Order an obligor to keep a tribunal informed of the obligor's current:

- (A) residential address;
 - (B) telephone number;
 - (C) income payor;
 - (D) address of employment; and
 - (E) telephone number at the place of employment.
- (9) Issue a bench warrant or body attachment for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal, and enter the bench warrant in any local and state computer systems for criminal warrants.
- (10) Order the obligor to seek appropriate employment by specified methods.
- (11) Award reasonable attorney's fees and other fees and costs.
- (12) As appropriate, grant any other available remedy under federal or state law.
- (c) A responding Indiana tribunal shall include in:
- (1) a support order issued under this article; or
 - (2) the documents accompanying the order;
- the calculations upon which the support order is based.
- (d) A responding Indiana tribunal may not condition the payment of a support order issued under this article upon a party's compliance with provisions for parenting time.
- (e) If a responding Indiana tribunal issues an order under this article, the Indiana tribunal shall send a copy of the order by first class mail to the:
- (1) petitioner;
 - (2) respondent; and
 - (3) initiating tribunal, if any.
- As added by P.L.1-1997, SEC.10. Amended by P.L.68-2005, SEC.54.*

IC 31-18-3-6

Inappropriate tribunal

Sec. 6. If a petition or comparable pleading is received by an inappropriate Indiana tribunal, the inappropriate tribunal shall:

- (1) forward the pleading and accompanying documents to an appropriate tribunal in Indiana or another state; and
- (2) notify the initiating state by first class mail regarding the date and location that the pleading was sent. Whenever the inappropriate tribunal is unable to identify the appropriate tribunal under this section, the inappropriate tribunal shall return the pleading and accompanying documents to the initiating state.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-7

Duties of Title IV-D agency

Sec. 7. (a) An Indiana Title IV-D agency, upon request, shall provide services to a petitioner who is an obligee in a proceeding under this article.

(b) A Title IV-D agency, or its agents, that is providing services to the petitioner under this article shall:

- (1) take the steps necessary to enable an appropriate Indiana tribunal or another state to obtain jurisdiction over the respondent;
- (2) request an appropriate tribunal to set a date, time, and place for a hearing;
- (3) make a reasonable effort to obtain all relevant information, including information regarding income and property of the parties;
- (4) not later than ten (10) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, a responding, or a registering tribunal, send a copy of the notice by first class mail to the petitioner;
- (5) not later than ten (10) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and
- (6) notify the petitioner if jurisdiction over the respondent may not be obtained.

(c) This article does not create or negate:

- (1) an attorney-client; or
- (2) other fiduciary;

relationship between an attorney for either the Title IV-D agency or its agents and the individual being assisted.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.21.

IC 31-18-3-8

Neglect or refusal to provide services by Title IV-D agency

Sec. 8. If the department determines that an agent of the Title IV-D agency is neglecting or refusing to provide services to an individual, the department may:

- (1) direct the agent to perform duties of the agent under this article; or
- (2) provide the services directly to the individual.

As added by P.L.1-1997, SEC.10. Amended by P.L.145-2006, SEC.242.

IC 31-18-3-9

Private counsel

Sec. 9. An individual may employ private counsel to represent the individual in proceedings authorized by this article.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-10

Duties of the department

Sec. 10. (a) The department is the state information agency for Indiana under this article.

(b) The department shall do the following:

- (1) Compile and maintain a current list, including addresses, of each Indiana tribunal that has jurisdiction under this article and

transmit a copy of the list to the state information agency of every state.

(2) Maintain a registry of tribunals and support enforcement agencies received from other states.

(3) Forward to the appropriate tribunal in the location in Indiana in which:

(A) the obligee or the obligor resides; or

(B) the obligor's property is believed to be located;

all documents concerning a proceeding under this article received from an initiating tribunal or the state information agency of the initiating state.

(4) Obtain information concerning the location of the obligor and the obligor's property within Indiana that is not exempt from execution by the following methods:

(A) Postal verification.

(B) Federal or state locator services.

(C) Examination of telephone directories.

(D) Requests for the obligor's address from employers.

(E) Examination of governmental records, including, to the extent not prohibited by other law, records relating to the following:

(i) Real property.

(ii) Vital statistics.

(iii) Law enforcement.

(iv) Taxation.

(v) Motor vehicles.

(vi) Driver's licenses.

(vii) Social Security.

(viii) Worker's compensation.

As added by P.L.1-1997, SEC.10. Amended by P.L.145-2006, SEC.243.

IC 31-18-3-11

Pleadings and accompanying documents

Sec. 11. (a) A petitioner seeking to establish or modify a support order or to establish paternity in a proceeding under this article must verify the petition. Unless otherwise ordered under section 12 of this chapter, the petition or accompanying documents must provide the following if available:

(1) The names, residential addresses, and Social Security numbers of the obligor and the obligee.

(2) The name, sex, residential address, Social Security number, and date of birth of each child for whom support is sought.

(3) Any other information that may assist in locating or identifying the respondent.

(b) The petition must:

(1) be accompanied by a certified copy of any support order in effect; and

(2) specify the relief sought.

(c) The petition and accompanying documents must conform

substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency. *As added by P.L.1-1997, SEC.10.*

IC 31-18-3-12

Nondisclosure of information in exceptional circumstances

Sec. 12. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child may be unreasonably put at risk by the disclosure of identifying information, or as provided by an existing order, a tribunal or a Title IV-D agency or its agents may determine that:

(1) the address of the party or child; or

(2) other identifying information;

may not be disclosed in a pleading or other document filed in a proceeding under this article.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-13

Costs and fees

Sec. 13. (a) The petitioner or Title IV-D agent, or both, may not be required to pay a filing fee.

(b) Whenever appropriate, a responding tribunal may assess against either party all or part of the following:

(1) filing fees;

(2) reasonable attorney's fees;

(3) necessary travel expenses;

(4) blood or genetic testing costs; and

(5) any other reasonable expenses incurred by the party and their witnesses.

(c) The tribunal may not assess costs described in subsection (b) against the obligee or the support enforcement agency of either the initiating or the responding state, except as otherwise provided by law.

(d) Attorney's fees may be ordered. If attorney's fees are ordered, the court shall order the fees to be paid directly to the attorney, who may enforce the order in the attorney's own name. However, payment of support owed to the obligee has priority over fees, costs, and expenses.

(e) The tribunal shall order the payment of costs and reasonable attorney's fees if the tribunal determines that a hearing was requested primarily as the result of delay. In a proceeding under IC 31-18-6, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-14

Limited immunity

Sec. 14. (a) Participation by a petitioner in a proceeding before a responding tribunal whether:

(1) in person;

- (2) by private attorney; or
- (3) through services provided by the Title IV-D agency or its agents;

does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in Indiana to participate in a proceeding under this article.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this article committed by a party while present in Indiana to participate in the proceeding.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-15

Nonparentage as defense

Sec. 15. A party whose paternity of a child has been previously determined by law may not plead nonparentage as a defense to a proceeding under this article.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-16

Special rules of evidence and procedure

Sec. 16. (a) The physical presence of the petitioner in a responding Indiana tribunal is not required:

- (1) for establishing, enforcing, or modifying a support order; or
- (2) for a judgment of paternity.

(b) A verified petition, affidavit, or document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible into evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The certified copy is:

- (1) evidence of facts asserted in the copy; and
- (2) admissible to show whether payments were made.

(d) Copies of bills for:

- (1) paternity testing; and
- (2) prenatal and postnatal health care of the mother and child;

furnished to the adverse party at least ten (10) days before trial are admissible into evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to an Indiana tribunal by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this article, an Indiana tribunal may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at:

- (1) a designated tribunal; or
- (2) another designated location in the other state.

The deposition or testimony must be conducted while the party or witness is under oath. An Indiana tribunal shall cooperate with a tribunal in another state in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses who are parties to the proceeding does not apply in a proceeding under this article.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-17

Communication between tribunals

Sec. 17. (a) An Indiana tribunal may communicate with a tribunal of another state in writing, by telephone, or any other means to obtain information concerning the:

- (1) laws of the other state;
- (2) legal effect of a judgment, a decree, or an order of the other state's tribunal; and
- (3) status of a proceeding in the other state.

(b) An Indiana tribunal may furnish similar information by similar means to a tribunal of another state.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-18

Assistance with discovery

Sec. 18. An Indiana tribunal may:

- (1) request a tribunal of another state to assist in obtaining discovery; and
- (2) upon request, compel a person over whom the Indiana tribunal has jurisdiction to respond to a discovery order issued by the tribunal of another state.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-19

Receipt and disbursement of payments

Sec. 19. An Indiana tribunal shall promptly disburse amounts received under a support order as directed by the order. The agency or tribunal shall furnish to a:

- (1) requesting party; or
- (2) tribunal of another state;

a certified statement by the custodian of the record of the amount and date of each payment received.

As added by P.L.1-1997, SEC.10.