

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

### **Chapter 2. Actions for Dissolution of Marriage**

#### **IC 31-15-2-1**

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

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

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

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

##### **Cause of action established**

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

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

#### **IC 31-15-2-3**

##### **Grounds for decree**

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

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

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

#### **IC 31-15-2-4**

##### **Caption**

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

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

#### **IC 31-15-2-5**

##### **Verified petition; averments; guardian filing petition**

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

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

(F) The relief sought.

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

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

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

### **IC 31-15-2-6**

#### **Residence; filing in county of guardian's residence**

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

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

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

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

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

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

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

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

### **IC 31-15-2-7**

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

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

- (1) a legal separation proceeding is pending; or
- (2) a provisional order or decree for legal separation is in effect;

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

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

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

whichever occurs first.

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

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

has been granted.

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

### **IC 31-15-2-8**

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

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

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

### **IC 31-15-2-9**

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

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

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

### **IC 31-15-2-10**

#### **Final hearing**

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

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

### **IC 31-15-2-11**

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

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

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

### **IC 31-15-2-12**

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

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

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

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

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

### **IC 31-15-2-13**

#### **Summary dissolution decree**

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

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

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

### **IC 31-15-2-14**

#### **Bifurcation of issues; summary disposition orders**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

##### **Dissolution decree; scope; finality; remarriage pending appeal**

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

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

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

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

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

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

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

#### **IC 31-15-2-17**

##### **Agreements**

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

writing to provisions for:

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

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

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

### **IC 31-15-2-18**

#### **Name change of woman**

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

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