

IC 31-15-3

Chapter 3. Actions for Legal Separation

IC 31-15-3-1

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 31-15-3-2

Cause of action established

Sec. 2. A cause of action for legal separation is established.

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

IC 31-15-3-3

Findings required for decree

Sec. 3. Legal separation shall be decreed upon a finding by a court:

- (1) that conditions in or circumstances of the marriage make it currently intolerable for both parties to live together; and
- (2) that the marriage should be maintained.

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

IC 31-15-3-4

Caption; verified petition; averments; guardian filing petition

Sec. 4. (a) A proceeding for legal separation is commenced by the filing of a petition entitled, "In Re the legal separation of _____ and _____". The petition 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 names, ages, and addresses 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 legal separation.
 - (F) The relief sought.
 - (G) If a guardian of an incapacitated person is filing the petition for legal separation 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 legal separation on behalf of the incapacitated person, the guardian shall file with the petition a copy of the court order granting authority to petition for legal separation described in IC 29-3-9-12.2.

As added by P.L.1-1997, SEC.7. Amended by P.L.83-2014, SEC.15.

IC 31-15-3-5

Dissolution of marriage action; provisional order or decree as bar to legal separation proceeding

Sec. 5. A proceeding may not be commenced under section 4 of this chapter if:

- (1) an action for dissolution of marriage filed under IC 31-15-2-4 (or IC 31-1-11.5-3(a) before its repeal) is pending; or
- (2) a provisional order or decree based on a petition for dissolution of marriage filed under IC 31-15-2-4 (or IC 31-1-11.5-3(a) before its repeal) has been granted.

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

IC 31-15-3-6

Residence; filing in county of guardian's residence

Sec. 6. (a) At the time of the filing of a petition for legal separation 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 each petition.

(b) Except as provided in subsection (c), at the time of the filing of a petition for legal separation 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 for legal separation 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 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.16.

IC 31-15-3-7

Service of petition and summons

Sec. 7. 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 31-15-3-8

Responsive pleading or counter petition

Sec. 8. A responsive pleading or a counter petition may be filed under this chapter.

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

IC 31-15-3-9**Decree; term; findings**

Sec. 9. In an action for legal separation under section 2 of this chapter, the court may grant a decree for a separation of the parties to the marriage for a period not to exceed one (1) year if the court finds that:

- (1) conditions in or circumstances of the marriage make it currently intolerable for both parties to live together;
- (2) the marriage should be maintained; and
- (3) neither party has filed a petition or counter petition for dissolution of marriage under IC 31-15-2 (or IC 31-1-11.5 before its repeal).

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

IC 31-15-3-10**Scope of decree**

Sec. 10. A decree under this chapter may include orders as provided in this article.

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

IC 31-15-3-11**Maintenance**

Sec. 11. A decree under this chapter may not include a maintenance provision that extends beyond the period of legal separation.

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