

SENATE BILL No. 205

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-31-6; IC 4-33-8.5-2; IC 9-24-2-3; IC 9-25-6-19; IC 25-1-1.2-7; IC 27-1-15.5-21; IC 27-10-3; IC 31-14-15-4; IC 31-17-4.

Synopsis: Remedies for interference with visitation. Provides that whenever a court finds a custodial parent in contempt of court for violating an injunction or a temporary restraining order arising out of a violation of a visitation order, the court may order the clerk of the court to hold future child support payments in an escrow account until further order of the court. Prohibits a court from ordering escrow of child support payments unless the court determines that the order does not endanger the child's interests. Allows a court to order: (1) the suspension of a custodial parent's professional license and driver's license or the denial of a renewal or new professional license and driver's license of a custodial parent; (2) the suspension of a custodial
(Continued next page)

Effective: July 1, 1998.

Miller

January 6, 1998, read first time and referred to Committee on Judiciary.



Digest Continued

parent's license issued by the Indiana horse racing commission or the Indiana gaming commission; or (3) the suspension of a custodial parent's license or the denial of an application for a license as an insurance agent, a bail agent, or a recovery agent, if the custodial parent violates an injunction or a temporary restraining order relating to court ordered visitation.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 205

A BILL FOR AN ACT to amend the Indiana Code concerning family law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-31-6-6.5, AS AMENDED BY P.L.1-1997,
2 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 6.5. The commission shall deny
4 (†) a license or
5 (‡) the renewal of a license
6 issued under this chapter to a person who is the subject of an order
7 issued by a court under:
8 (1) IC 31-14-12-6 or IC 31-16-12-9 (or IC 31-1-11.5-13(l) or
9 IC 31-6-6.1-16(l) before their repeal) **as the result of a child**
10 **support delinquency; or**
11 **(2) IC 31-17-4-8.3 as the result of violating a court order for**
12 **visitation.**
13 SECTION 2. IC 4-31-6-10, AS AMENDED BY P.L.1-1997,
14 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 1998]: Sec. 10. (a) Upon receiving an order of a court issued

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1 under ~~IC 13-14-12-6~~ **IC 31-14-12-6** or IC 31-16-12-9 (or
 2 IC 31-1-11.5-13(l) or IC 31-6-6.1-16(l) before their repeal) **as a result**
 3 **of a child support delinquency or an order issued under**
 4 **IC 31-17-4-8.3 as a result of the violation of a court order for**
 5 **visitation**, the commission shall:

6 (1) suspend a license issued under this chapter to any person who
 7 is the subject of the order; and

8 (2) promptly mail a notice to the last known address of the person
 9 who is the subject of the order, stating the following:

10 (A) That the person's license is suspended beginning five (5)
 11 business days after the date the notice is mailed, and that the
 12 suspension will terminate not earlier than ten (10) business
 13 days after the commission receives an order allowing
 14 reinstatement from the court that issued the suspension order.

15 (B) That the person has the right to petition for reinstatement
 16 of a license issued under this chapter to the court that issued
 17 the order for suspension.

18 (b) The commission shall not reinstate a license suspended under
 19 subsection (a) until the commission receives an order allowing
 20 reinstatement from the court that issued the order for suspension.

21 SECTION 3. IC 4-33-8.5-2, AS AMENDED BY P.L.1-1997,
 22 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 1998]: Sec. 2. (a) Upon receiving an order of a court issued
 24 under IC 31-14-12-6 or IC 31-16-12-9 (or IC 31-1-11.5-13(l) or
 25 IC 31-6-6.1-16(l) before their repeal) **as a result of a child support**
 26 **delinquency or an order issued under IC 31-17-4-8.3 as a result of**
 27 **the violation of a court order for visitation**, the commission shall:

28 (1) suspend a license issued under this article to a person who is
 29 the subject of the order; and

30 (2) promptly mail a notice to the last known address of the person
 31 who is the subject of the order, stating the following:

32 (A) That the person's license is suspended beginning five (5)
 33 business days after the date the notice is mailed, and that the
 34 suspension will terminate not earlier than ten (10) business
 35 days after the commission receives an order allowing
 36 reinstatement from the court that issued the suspension order.

37 (B) That the person has the right to petition for reinstatement
 38 of a license issued under this chapter to the court that issued
 39 the order for suspension.

40 (b) The commission shall not reinstate a license suspended under
 41 subsection (a) until the commission receives an order allowing
 42 reinstatement from the court that issued the order for suspension.



1 SECTION 4. IC 9-24-2-3, AS AMENDED BY P.L.1-1997,
 2 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 1998]: Sec. 3. (a) The bureau may not issue a license or
 4 permit to the following individuals:

5 (1) An individual whose license issued under Indiana law to
 6 operate a motor vehicle as an operator, a chauffeur, or a public
 7 passenger chauffeur has been suspended, during the period for
 8 which the license was suspended, or to an individual whose
 9 license has been revoked, until the time the bureau is authorized
 10 under Indiana law to issue the individual a new license.

11 (2) An individual whose learner's permit has been suspended or
 12 revoked until the time the bureau is authorized under Indiana law
 13 to issue the individual a new permit.

14 (3) An individual who, in the opinion of the bureau, is afflicted
 15 with or suffering from a physical or mental disability or disease
 16 that prevents the individual from exercising reasonable and
 17 ordinary control over a motor vehicle while operating the vehicle
 18 upon the public highways.

19 (4) An individual who is unable to understand highway warnings
 20 or direction signs written in the English language.

21 (5) An individual who is required under this chapter to take an
 22 examination unless the person successfully passes the
 23 examination.

24 (6) An individual who is required under IC 9-25 to deposit proof
 25 of financial responsibility and who has not deposited that proof.

26 (7) An individual when the bureau has good cause to believe that
 27 the operation of a motor vehicle on a public highway of Indiana
 28 by the individual would be inimical to public safety or welfare.

29 (8) An individual who is the subject of an order issued by:

30 (A) a court under IC 31-14-12-4 or IC 31-16-12-7 (or
 31 IC 31-1-11.5-13 or IC 31-6-6.1-16 before their repeal) **as a**
 32 **result of a child support delinquency or an order issued**
 33 **under IC 31-17-4-8.1 as a result of the violation of a court**
 34 **order for visitation;** or

35 (B) the Title IV-D agency;

36 ordering that a driving license or permit not be issued to the
 37 individual.

38 (b) An individual subject to epileptic seizures may not be denied a
 39 license under this section if the individual presents a statement from a
 40 licensed physician that the individual is under medication and is free
 41 from seizures while under medication.

42 SECTION 5. IC 9-25-6-19, AS AMENDED BY P.L.1-1997,



1 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 1998]: Sec. 19. (a) The bureau shall, upon receiving an order
 3 of a court issued under IC 31-14-12-4 or IC 31-16-12-7 (or
 4 IC 31-1-11.5-13(j) or IC 31-6-6.1-16(j) before their repeal) **as a result**
 5 **of a child support delinquency or an order issued under**
 6 **IC 31-17-4-8.1 as a result of the violation of a court order for**
 7 **visitation**, suspend the driving license or permit of the person who is
 8 the subject of the order.

9 (b) The bureau may not reinstate a driving license or permit
 10 suspended under this section until the bureau receives an order
 11 allowing reinstatement from the court that issued the order for
 12 suspension.

13 (c) Upon receiving an order for suspension under subsection (a), the
 14 bureau shall promptly mail a notice to the last known address of the
 15 person who is the subject of the order, stating the following:

16 (1) That the person's driving privileges are suspended, beginning
 17 five (5) business days after the date the notice is mailed, and that
 18 the suspension will terminate ten (10) business days after the
 19 bureau receives an order allowing reinstatement from the court
 20 that issued the suspension order.

21 (2) That the person has the right to petition for reinstatement of
 22 driving privileges to the court that issued the order for suspension.

23 (3) That the person may be granted a restricted driving permit
 24 under IC 9-24-15-6.7 if the person can prove that public
 25 transportation is unavailable for travel by the person:

26 (A) to and from the person's regular place of employment;

27 (B) in the course of the person's regular employment;

28 (C) to and from the person's place of worship; or

29 (D) to participate in visitation with the petitioner's children
 30 consistent with a court order granting visitation.

31 (d) Unless a person whose driving license or permit is suspended
 32 under this section has been issued a restricted driving permit under
 33 IC 9-24-15 as a result of a suspension under this section, a person who
 34 operates a motor vehicle in violation of the section commits a Class A
 35 infraction.

36 SECTION 6. IC 25-1-1.2-7, AS AMENDED BY P.L.1-1997,
 37 SECTION 109, IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) Upon receiving an order of a
 39 court issued under IC 31-14-12-5 or IC 31-16-12-8 (or
 40 IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before their repeal) **as a result**
 41 **of a child support delinquency or an order issued under**
 42 **IC 31-17-4-8.2 as a result of the violation of a court order for**



1 **visitation**, the board shall:

2 (1) suspend the license of the practitioner; or

3 (2) deny the application of the applicant;

4 who is the subject of the order.

5 (b) Upon receiving an order of a court issued under IC 31-14-12-5
6 or IC 31-16-12-8 (or IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before
7 their repeal) **as a result of a child support delinquency or an order**
8 **issued under IC 31-17-4-8.2 as a result of the violation of a court**
9 **order for visitation**, the board shall promptly mail a notice to the last
10 known address of the person who is the subject of the order, stating the
11 following:

12 (1) That the practitioner's license has been suspended, beginning
13 five (5) business days after the date the notice is mailed, and that
14 the suspension will terminate ten (10) business days after the
15 board receives an order allowing reinstatement from the court that
16 issued the suspension order.

17 (2) That the practitioner has the right to petition for reinstatement
18 of the practitioner's license to the court that issued the order for
19 suspension.

20 (c) The board may not reinstate a license suspended under this
21 section until the board receives an order allowing reinstatement from
22 the court that issued the order for suspension.

23 SECTION 7. IC 27-1-15.5-21, AS AMENDED BY P.L.1-1997,
24 SECTION 112, IS AMENDED TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 1998]: Sec. 21. (a) Upon receiving an order of
26 a court issued under IC 31-14-12-7 or IC 31-16-12-10 (or
27 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal) **as a**
28 **result of a child support delinquency and an order issued under**
29 **IC 31-17-4-8.4 as a result of the violation of a court order for**
30 **visitation**, the commissioner shall:

31 (1) suspend a license issued under this chapter to the person who
32 is the subject of the order; and

33 (2) promptly mail a notice to the last known address of the person
34 who is the subject of the order, stating the following:

35 (A) That the person's license is suspended beginning five (5)
36 business days after the date the notice is mailed, and that the
37 suspension will terminate not earlier than ten (10) business
38 days after the commissioner receives an order allowing
39 reinstatement from the court that issued the suspension order.

40 (B) That the person has the right to petition for reinstatement
41 of a license issued under this chapter to the court that issued
42 the order for suspension.



1 (b) The commissioner shall not reinstate a license suspended under
 2 subsection (a) until the commissioner receives an order allowing
 3 reinstatement from the court that issued the order for suspension.

4 SECTION 8. IC 27-10-3-8, AS AMENDED BY P.L.1-1997,
 5 SECTION 114, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) The commissioner shall deny,
 7 suspend, revoke, or refuse to renew any license issued under this article
 8 for any of the following causes:

9 (1) Any cause for which issuance of the license could have been
 10 refused had it then existed and been known to the commissioner.

11 (2) Violation of any laws of this state in the course of dealings
 12 under any license issued the licensee by the commissioner.

13 (3) Material misstatement, misrepresentation, or fraud in
 14 obtaining the license.

15 (4) Misappropriation, conversion, or unlawful withholding of
 16 money belonging to insurers or others and received in the conduct
 17 of business under any license issued to the licensee by the
 18 commissioner.

19 (5) Fraudulent or dishonest practices in the conduct of business
 20 under any license issued to the licensee by the commissioner.

21 (6) Willful failure to comply with or willful violation of any
 22 proper order or rule of the commissioner.

23 (7) When, in the judgment of the commissioner, the licensee has,
 24 in the conduct of affairs under the license, demonstrated:

25 (A) incompetency or untrustworthiness;

26 (B) conduct or practices rendering the licensee unfit to carry
 27 on the bail bond business or making the licensee's continuance
 28 in such business detrimental to the public interest;

29 (C) that the licensee is no longer in good faith carrying on the
 30 bail bond business; or

31 (D) that the licensee is guilty of rebating, or offering to rebate,
 32 or unlawfully dividing, or offering to divide, the licensee's
 33 commissions in the case of limited surety agents;

34 and for such reasons is found by the commissioner to be a source
 35 of detriment, injury, or loss to the public.

36 (8) The listing of the name of the applicant or licensee on the
 37 most recent tax warrant list supplied to the commissioner by the
 38 department of state revenue.

39 (b) The commissioner shall refuse to

40 (1) issue a license or

41 (2) renew a license issued

42 under this chapter to a person who is the subject of an order issued by



1 a court under:

- 2 (1) IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or
 3 IC 31-6-6.1-16(m) before their repeal) **as a result of a child**
 4 **support delinquency; or**
 5 (2) **IC 31-17-4-8.4 as a result of the violation of a court order**
 6 **for visitation.**

7 (c) The commissioner may also levy a civil penalty of not more than
 8 ten thousand dollars (\$10,000) for any of the causes listed in subsection
 9 (a). Any civil penalty levied under this subsection may be enforced in
 10 the same manner as a civil judgment.

11 (d) When a person who holds a license under this chapter enters a
 12 plea of guilty to a disqualifying offense, the commissioner, immediately
 13 upon the court's acceptance of the plea, shall revoke the person's
 14 license. The commissioner shall revoke the license of any person who
 15 is convicted of a disqualifying offense immediately upon conviction.
 16 The pending of sentencing or the pending of an appeal of a conviction
 17 of a disqualifying offense does not stay the revocation of a license
 18 under this subsection. A person convicted of a felony is not eligible to
 19 reapply for a license until ten (10) years from the date of conviction or
 20 release from imprisonment, parole, or probation, whichever is later. A
 21 person convicted of a misdemeanor disqualifying offense is not eligible
 22 to reapply for a license until five (5) years from the date of conviction
 23 or release from imprisonment, parole, or probation, whichever is later.

24 SECTION 9. IC 27-10-3-19, AS AMENDED BY P.L.1-1997,
 25 SECTION 115, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) Upon receiving an order of
 27 a court issued under IC 31-14-12-7 or IC 31-16-12-10 (or
 28 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal) **as a**
 29 **result of a child support delinquency or an order issued under**
 30 **IC 31-17-4-8.4 as a result of the violation of a court order for**
 31 **visitation**, the commissioner shall:

- 32 (1) suspend a license issued under this chapter to any person who
 33 is the subject of the order; and
 34 (2) promptly mail a notice to the last known address of the person
 35 who is the subject of the order, stating the following:
 36 (A) That the person's license is suspended beginning five (5)
 37 business days after the date the notice is mailed, and that the
 38 suspension will terminate not earlier than ten (10) business
 39 days after the commissioner receives an order allowing
 40 reinstatement from the court that issued the suspension order.
 41 (B) That the person has the right to petition for reinstatement
 42 of a license issued under this chapter to the court that issued



1 the order for suspension.

2 (b) The commissioner shall not reinstate a license suspended under
3 subsection (a) until the commissioner receives an order allowing
4 reinstatement from the court that issued the order for suspension.

5 SECTION 10. IC 31-14-15-4, AS ADDED BY P.L.1-1997,
6 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 1998]: Sec. 4. A court that finds a violation without justifiable
8 cause by a custodial parent of an injunction or a temporary restraining
9 order issued under this chapter (or IC 31-6-6.1-12.1 before its repeal):

- 10 (1) shall find the custodial parent in contempt of court;
11 (2) shall order the exercise of visitation that was not exercised due
12 to the violation under this section (or IC 31-6-6.1-12.1(e) before
13 its repeal) at a time the court considers compatible with the
14 schedules of the noncustodial parent and the child;
15 (3) may order payment by the custodial parent of reasonable
16 attorney's fees, costs, and expenses to the noncustodial parent;
17 **and**
18 (4) may order the custodial parent to perform community service
19 without compensation in a manner specified by the court;
20 **(5) may order the clerk of the court to hold future child**
21 **support payments in an escrow account until further order of**
22 **the court; and**
23 **(6) may order any of the remedies described in IC 31-17-4-8.1**
24 **through IC 31-17-4-8.4.**

25 **However, a court may not order the escrow of child support**
26 **payments under subdivision (5) unless the court determines the**
27 **order does not endanger the child's interests.**

28 SECTION 11. IC 31-17-4-8, AS ADDED BY P.L.1-1997,
29 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 1998]: Sec. 8. A court that finds an intentional violation
31 without justifiable cause by a custodial parent of an injunction or a
32 temporary restraining order issued under this chapter (or
33 IC 31-1-11.5-26 before its repeal):

- 34 (1) shall find the custodial parent in contempt of court;
35 (2) shall order the exercise of visitation that was not exercised due
36 to the violation under this section at a time the court considers
37 compatible with the schedules of the noncustodial parent and the
38 child;
39 (3) may order payment by the custodial parent of reasonable
40 attorney's fees, costs, and expenses to the noncustodial parent;
41 **and**
42 (4) may order the custodial parent to perform community service



1 without compensation in a manner specified by the court;

2 **(5) may order the clerk of the court to hold future child**
 3 **support payments in an escrow account until further order of**
 4 **the court; and**

5 **(6) may order any of the remedies set forth in sections 8.1**
 6 **through 8.4 of this chapter.**

7 **However, a court may not order the escrow of child support**
 8 **payments under subdivision (5) unless the court determines the**
 9 **order does not endanger the child's interests.**

10 SECTION 12. IC 31-17-4-8.1 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 1998]: **Sec. 8.1. If a court finds a violation**
 13 **without justifiable cause of an injunction or a temporary**
 14 **restraining order issued under this chapter, the court may issue an**
 15 **order to the bureau of motor vehicles:**

16 **(1) stating that the person has been found in contempt of**
 17 **court as a result of the violation of a court order for**
 18 **visitation; and**

19 **(2) ordering the following:**

20 **(A) If the person who is the subject of the order holds a**
 21 **driver's license or permit on the date of issuance of the**
 22 **order, that the driving privileges of the person be**
 23 **suspended until further order of the court.**

24 **(B) If the person who is the subject of the order does not**
 25 **hold a driver's license or permit on the date of issuance of**
 26 **the order, that the bureau may not issue a driver's license**
 27 **or permit to the person until the bureau receives a further**
 28 **order of the court.**

29 SECTION 13. IC 31-17-4-8.2 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 1998]: **Sec. 8.2. If a court finds that a person**
 32 **who is an applicant (as defined in IC 25-1-1.2-1), a practitioner (as**
 33 **defined in IC 25-1-1.2-6), an attorney, or a licensed teacher is in**
 34 **contempt of court as the result of the violation without justifiable**
 35 **cause of an injunction or a temporary restraining order issued**
 36 **under this chapter, the court may issue an order to the board**
 37 **regulating the practice of the person's profession or occupation:**

38 **(1) requiring that the person's or practitioner's license be**
 39 **suspended until further order of the court; or**

40 **(2) ordering the board not to issue a license to the person who**
 41 **is the subject of the order if the person does not currently hold**
 42 **a license.**



1 SECTION 14. IC 31-17-4-8.3 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 1998]: **Sec. 8.3. If a court finds that a person**
 4 **who holds a license issued under IC 4-31-6 or IC 4-33 is in**
 5 **contempt of court as a result of the violation without justifiable**
 6 **cause of an injunction or a temporary restraining order issued**
 7 **under this chapter, the court may issue an order to:**

8 (1) **the Indiana horse racing commission, if the person holds**
 9 **a license issued under IC 4-31-6; or**

10 (2) **the Indiana gaming commission, if the person holds a**
 11 **license issued under IC 4-33;**

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

14 SECTION 15. IC 31-17-4-8.4 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 1998]: **Sec. 8.4. If a court finds that a person**
 17 **who holds a license or who is an applicant for a license issued**
 18 **under IC 27-1-15.5 or IC 27-10-3 is in contempt of court as the**
 19 **result of a violation without justifiable cause of an injunction or a**
 20 **temporary restraining order issued under this chapter, the court**
 21 **may issue an order to the commissioner of the department of**
 22 **insurance:**

23 (1) **requiring that the person's license be suspended until**
 24 **further order of the court;**

25 (2) **ordering the commissioner not to issue a license to the**
 26 **person who is the subject of the order if the person does not**
 27 **currently hold a license; or**

28 (3) **ordering the commissioner not to renew the license of a**
 29 **person who is the subject of the order.**

30 SECTION 16. IC 31-17-4-8.5 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 1998]: **Sec. 8.5. Notwithstanding section 8.1,**
 33 **8.2, 8.3, or 8.4 of this chapter, a court may stay the issuance of an**
 34 **order under section 8.1, 8.2, 8.3, or 8.4 of this chapter:**

35 (1) **if the person ceases to interfere with the noncustodial**
 36 **parent's visitation for a period acceptable to the court; or**

37 (2) **for any other reason that the court considers just.**

