
SENATE BILL No. 383

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2; IC 31-14; IC 31-15; IC 31-16; IC 31-17.

Synopsis: Various family law issues. Establishes a rebuttable presumption of joint legal and physical custody in dissolution of marriage and paternity cases. Changes the factors used in determining custody. Provides for certain minimum visitation if joint physical custody is not ordered. Establishes visitation guidelines. Requires seven days of confinement in the county jail for a custodial parent who intentionally violates certain visitation orders. Requires mediation or counseling in a contested dissolution. Allows child support to be deposited in escrow during a visitation enforcement proceeding. Requires parties to a legal separation or dissolution to participate in counseling. Requires a court to modify custody if a parent moves outside Indiana or at least 100 miles from the parent's county of residence. Requires the payment of delinquent support at certain regular intervals. Provides that a judge who fails to comply with certain statutory provisions commits official misconduct, is not entitled to judicial immunity, and may not be represented at the state's expense in an action for official misconduct. Requires a judge of a court with jurisdiction over dissolution or paternity matters to participate in training in shared parenting. Repeals certain provisions concerning joint legal custody.

Effective: July 1, 2000.

Waterman

January 10, 2000, read first time and referred to Committee on Judiciary.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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SENATE BILL No. 383



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

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

1 SECTION 1. IC 31-9-2-67 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 67. "Joint legal
3 custody", for purposes of ~~IC 31-17-2-13, IC 31-17-2-14, and~~
4 ~~IC 31-17-2-15, IC 31-14-13 and IC 31-17-2~~, means that the persons
5 awarded joint custody will share authority and responsibility for the
6 major decisions concerning the child's upbringing, including the child's
7 education, health care, and religious training. **The term does not**
8 **include an equal division of physical custody of the child.**

9 SECTION 2. IC 31-9-2-67.5 IS ADDED TO THE INDIANA CODE
10 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2000]: **Sec. 67.5. "Joint physical custody", for purposes of**
12 **IC 31-14-13 and IC 31-17-2, means that a child's parents share**
13 **physical custody of the child as equally as possible.**

14 SECTION 3. IC 31-14-1-2 IS ADDED TO THE INDIANA CODE
15 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2000]: **Sec. 2. A judge who fails to comply with the provisions of**
17 **this article:**



- 1 **(1) commits official misconduct under IC 35-44-1-2;**
- 2 **(2) is not entitled to judicial immunity; and**
- 3 **(3) may not be represented at the state's expense in an action**
- 4 **against the judge for official misconduct.**

5 SECTION 4. IC 31-14-1-3 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2000]: **Sec. 3. Within each two (2) year period that a judge**
 8 **presides over a court with jurisdiction over paternity and**
 9 **dissolution of marriage actions, the judge shall participate in forty**
 10 **(40) hours of training in shared parenting to be conducted by a:**

- 11 **(1) professional with expertise in child development; or**
- 12 **(2) clinical child psychologist.**

13 SECTION 5. IC 31-14-12-3 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3. (a)** If the court finds
 15 that a party is delinquent as a result of an intentional violation of an
 16 order for support, the court ~~may~~ **shall** find the party in contempt of
 17 court.

18 **(b) The court shall order a party who is found in contempt of**
 19 **court under this section to pay all delinquent support at regular**
 20 **intervals as ordered by the court provided that the other party**
 21 **complied with all court orders in the paternity action including**
 22 **custody and visitation orders.**

23 **(c)** The court may order a party who is found in contempt of court
 24 under this section to perform community service without compensation
 25 in a manner specified by the court.

26 SECTION 6. IC 31-14-13-2, AS AMENDED BY P.L.96-1999,
 27 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2000]: **Sec. 2. (a)** The court shall determine custody in
 29 accordance with the best interests of the child. In determining the
 30 child's best interests, **there is a rebuttable presumption that joint**
 31 **legal custody and joint physical custody are in the best interests of**
 32 **the child, and** there is not a presumption favoring either parent. **The**
 33 **court shall consider all relevant factors, including the following:**

- 34 **(1) The age and sex of the child;**
- 35 **(2) The wishes of the child's parents;**
- 36 **(3) The wishes of the child, with more consideration given to the**
 37 **child's wishes if the child is at least fourteen (14) years of age;**
- 38 **(4) The interaction and interrelationship of the child with:**
 - 39 **(A) the child's parents;**
 - 40 **(B) the child's siblings; and**
 - 41 **(C) any other person who may significantly affect the child's**
 42 **best interest.**

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1 (5) The child's adjustment to home, school, and community.

2 (6) The mental and physical health of all individuals involved.

3 (7) Evidence of a pattern of domestic violence by either parent.

4 (8) Evidence that the child has been cared for by a de facto
5 custodian, and if the evidence is sufficient, the court shall
6 consider the factors described in section 2.5(b) of this chapter.

7 **(b) The court shall order joint physical custody whenever:**

8 **(1) the child's parents are willing to advance the child's**
9 **welfare; and**

10 **(2) the child's parents live in close proximity to each other and**
11 **plan to continue to do so.**

12 **(c) The court shall order joint legal custody whenever only one**
13 **(1) of the child's parents wants physical custody of the child.**

14 SECTION 7. IC 31-14-13-10 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. **(a)** If an individual
16 who has been awarded **sole or joint** custody of a child under this
17 chapter (or IC 31-6-6.1-11 before its repeal) intends to move to a
18 residence other than a residence specified in the custody order that is
19 outside Indiana or at least one hundred (100) miles from the
20 individual's county of residence, the individual must:

21 (1) file a notice of that intent with the clerk of the court that
22 issued the custody order; and

23 (2) send a copy of the notice to ~~each noncustodial~~ **the other**
24 **parent who was awarded joint physical or legal custody of the**
25 **child, or both, or was not awarded custody and who has been**
26 **granted visitation rights under IC 31-14-14 (or IC 31-6-6.1-12**
27 **before its repeal).**

28 **(b) Whenever a person with sole or joint physical or joint legal**
29 **custody moves to a residence:**

30 **(1) other than a residence specified in the custody order; and**

31 **(2) that is outside Indiana or at least one hundred (100) miles**
32 **from the individual's county of residence;**

33 **the court shall grant physical custody of the child within thirty (30)**
34 **days approximately seventy-five percent (75%) of the time each**
35 **year to the parent who does not move and who initiates a custody**
36 **modification proceeding under this chapter, and the remaining**
37 **twenty-five percent (25%) of the time each year physical custody**
38 **shall be granted to the parent who moves or intends to move.**

39 SECTION 8. IC 31-14-14-1 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. **(a)** A noncustodial
41 parent is entitled to reasonable visitation rights **as described in**
42 **subsection (b)** unless the court finds, after a hearing, that visitation



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1 might:

- 2 (1) endanger the child's physical health and well-being; or
 3 (2) significantly impair the child's emotional development.

4 **(b) Whenever the court orders visitation under this section, the**
 5 **court shall order the visitation periods prescribed by**
 6 **IC 31-17-4-1.5 unless the court enters into the record written**
 7 **findings of fact and conclusions of law that state why disregarding**
 8 **the visitation periods prescribed by IC 31-17-4-1.5 is appropriate.**

9 SECTION 9. IC 31-14-15-4 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) A court that finds
 11 a violation without justifiable cause by a custodial parent of an
 12 injunction or a temporary restraining order issued under this chapter (or
 13 IC 31-6-6.1-12.1 before its repeal):

- 14 (1) shall find the custodial parent in contempt of court;
 15 (2) shall order the exercise of visitation that was not exercised due
 16 to the violation under this section (or IC 31-6-6.1-12.1(e) before
 17 its repeal) at a time the court considers compatible with the
 18 schedules of the noncustodial parent and the child;
 19 (3) **shall order the custodial parent to be confined to the**
 20 **county jail for seven (7) days for each violation of the court's**
 21 **order;**
 22 (4) may order payment by the custodial parent of reasonable
 23 attorney's fees, costs, and expenses to the noncustodial parent;
 24 and
 25 ~~(4)~~ (5) may order the custodial parent to perform community
 26 service without compensation in a manner specified by the court.

27 **(b) Whenever a petition for enforcement of a visitation order is**
 28 **filed, a parent may deposit child support funds in an escrow**
 29 **account of the court clerk, and child support funds must be held in**
 30 **the escrow account until the court finds that the visitation order is**
 31 **complied with.**

32 SECTION 10. IC 31-15-1-3 IS ADDED TO THE INDIANA CODE
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 34 1, 2000]: Sec. 3. **A judge who fails to comply with this chapter**
 35 **commits official misconduct under IC 35-44-1-2 and:**

- 36 (1) **is not entitled to judicial immunity; and**
 37 (2) **may not be represented at the state's expense in any action**
 38 **against the judge for official misconduct.**

39 SECTION 11. IC 31-15-1-4 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2000]: Sec. 4. **With each two (2) year period that a judge presides**
 42 **over a court with jurisdiction over paternity and dissolution of**

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1 **marriage actions, the judge shall participate in forty (40) hours of**
 2 **training in shared parenting to be conducted by a:**

- 3 (1) **professional with expertise in child development; or**
 4 (2) **clinical child psychologist.**

5 SECTION 12. IC 31-15-2-3 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. Dissolution of
 7 marriage shall be decreed upon a finding by a court of one (1) of the
 8 following grounds and no other ground:

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

15 **However, a court may not decree a dissolution of marriage unless**
 16 **the parties have participated in forty (40) hours of court approved**
 17 **counseling sessions.**

18 SECTION 13. IC 31-15-2-15 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15. (a) At the final
 20 hearing on a petition for dissolution of marriage, the court shall
 21 consider evidence, including agreements and verified pleadings filed
 22 with the court. If the court finds that the material allegations of the
 23 petition are true **and that the parties have participated in forty (40)**
 24 **hours of court approved counseling sessions,** the court:

- 25 (1) shall enter a dissolution decree as provided in section 16 of
 26 this chapter; or
 27 (2) if the court finds that there is a reasonable possibility of
 28 reconciliation, may continue the matter and order the parties to
 29 seek reconciliation through any available counseling.
 30 (b) At any time forty-five (45) days after the date of a continuance:
 31 (1) either party may move for the dissolution of the marriage; and
 32 (2) the court may enter a dissolution decree as provided in section
 33 16 of this chapter.

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

37 SECTION 14. IC 31-15-3-3 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. Legal separation
 39 shall be decreed upon a finding by a court:

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



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1 **However, the court may not decree a legal separation unless the**
 2 **parties have participated in at least forty (40) hours of court**
 3 **approved counseling sessions.**

4 SECTION 15. IC 31-15-4-9 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. The court ~~may~~ **shall**
 6 require the parties **in a dissolution of marriage action** to seek **forty**
 7 **(40) hours of counseling for themselves or for a child of the parties**
 8 under such terms and conditions that the court considers appropriate if:

9 ~~(1)~~ **(1)** either party makes a motion for counseling in an effort to
 10 **improve conditions of their marriage;**

11 ~~(2)~~ **(2)** a party; the child of the parties; the child's guardian ad litem
 12 or court appointed special advocate; or the court makes a motion
 13 for counseling for the child; or

14 ~~(3)~~ **(3)** the court makes a motion for counseling for parties who are
 15 the parents of a child less than eighteen (18) years of age.

16 **before the court may decree a dissolution of marriage.**

17 SECTION 16. IC 31-15-7-10 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. Notwithstanding
 19 any other law, all orders and awards contained in a dissolution of
 20 marriage decree or legal separation decree: ~~may~~

21 **(1) shall** be enforced by

22 ~~(1)~~ **(1)** contempt; **and**

23 **(2) may be enforced by:**

24 ~~(A)~~ **(A)** an assignment of wages or other income; or

25 ~~(B)~~ **(B)** any other remedies available for the enforcement of a
 26 court order;

27 except as otherwise provided by this article.

28 SECTION 17. IC 31-15-9.4-1 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. Whenever the court
 30 issues an order under this article, other than an ex parte order, the court
 31 shall determine whether the ~~proceeding should be referred to~~
 32 ~~mediation. In making this determination, the court shall consider:~~

33 ~~(1)~~ **(1)** the ability of the parties to pay for the mediation services; and

34 ~~(2)~~ **(2)** whether mediation is appropriate in helping the parties resolve
 35 their disputes.

36 **parties have any contested issues. If the parties have contested**
 37 **issues, the court shall refer the proceeding to mediation or**
 38 **counseling.**

39 SECTION 18. IC 31-16-1-3 IS ADDED TO THE INDIANA CODE
 40 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2000]: **Sec. 3. A judge who fails to comply with this chapter:**

42 **(1) commits official misconduct under IC 35-44-1-2;**



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- 1 **(2) is not entitled to judicial immunity; and**
 2 **(3) may not be represented at the state's expense in an action**
 3 **against the judge for official misconduct.**

4 SECTION 19. IC 31-16-12-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. Notwithstanding any
 6 other law, all orders and awards contained in a child support decree:
 7 ~~may~~

8 **(1) shall** be enforced by

9 ~~(1)~~ contempt; **and**

10 **(2) may be enforced by:**

11 **(A) an** assignment of wages or other income; or

12 ~~(2)~~ **(B) any** other remedies available for the enforcement of a
 13 court order;

14 except as otherwise provided by IC 31-16-2 through IC 31-16-11 or
 15 this chapter.

16 SECTION 20. IC 31-16-12-6 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. **(a)** If the court finds
 18 that a party is delinquent as a result of an intentional violation of an
 19 order for support, the court ~~may~~ **shall** find the party in contempt of
 20 court. **Whenever the court finds a party in contempt of court under**
 21 **this subsection, the court shall order the party to:**

22 **(1) pay the delinquent support at regular intervals; and**

23 **(2) perform community service without compensation.**

24 **(b)** The court may order a party who is found in contempt of court
 25 under this section to perform community service without compensation
 26 in a manner specified by the court.

27 SECTION 21. IC 31-17-1-3 IS ADDED TO THE INDIANA CODE
 28 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2000]: **Sec. 3. A judge who fails to comply with this chapter**
 30 **commits official misconduct under IC 35-44-1-2 and:**

31 **(1) is not entitled to judicial immunity; and**

32 **(2) may not be represented at the state's expense in an action**
 33 **against the judge for judicial misconduct.**

34 SECTION 22. IC 31-17-2-8, AS AMENDED BY P.L.96-1999,
 35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2000]: Sec. 8. **(a)** The court shall determine custody and enter
 37 a custody order in accordance with the best interests of the child. In
 38 determining the best interests of the child, **there is a rebuttable**
 39 **presumption that joint legal custody and joint physical custody are**
 40 **in the best interests of the child, and** there is no presumption favoring
 41 either parent. The court shall ~~consider all relevant factors, including the~~
 42 ~~following:~~



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- 1 (1) The age and sex of the child.
 2 (2) The wishes of the child's parent or parents.
 3 (3) The wishes of the child; with more consideration given to the
 4 child's wishes if the child is at least fourteen (14) years of age.
 5 (4) The interaction and interrelationship of the child with:
 6 (A) the child's parent or parents;
 7 (B) the child's sibling; and
 8 (C) any other person who may significantly affect the child's
 9 best interests.
 10 (5) The child's adjustment to the child's:
 11 (A) home;
 12 (B) school; and
 13 (C) community.
 14 (6) The mental and physical health of all individuals involved.
 15 (7) Evidence of a pattern of domestic violence by either parent.
 16 (8) Evidence that the child has been cared for by a de facto
 17 custodian; and if the evidence is sufficient, the court shall
 18 consider the factors described in section 8.5(b) of this chapter.

19 **order joint physical custody whenever:**

- 20 (1) the child's parents are willing to advance the child's
 21 welfare; and
 22 (2) the child's parents live in close proximity to each other and
 23 plan to continue to do so.

24 **(b) The court shall order joint legal custody whenever only one**
 25 **(1) of the child's parents wants physical custody of the child.**

26 SECTION 23. IC 31-17-2-23, AS AMENDED BY P.L.96-1999,
 27 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2000]: Sec. 23. (a) If an individual who has been awarded **sole**
 29 **or joint** custody of a child under this chapter intends to move to a
 30 residence:

- 31 (1) other than a residence specified in the custody order; and
 32 (2) that is outside Indiana or at least one hundred (100) miles
 33 from the individual's county of residence;

34 the individual must file a notice of the intent to move with the clerk of
 35 the court that issued the custody order and send a copy of the notice to
 36 **a the other** parent who was **awarded joint physical or legal custody**
 37 **of the child, or both, or was** not awarded custody and who has been
 38 granted visitation rights under IC 31-17-4 (or IC 31-1-11.5-24 before
 39 its repeal).

40 **(b) Whenever a person with sole or joint physical or joint legal**
 41 **custody, or both, moves:**

- 42 (1) to a residence other than a residence specified in the

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1 custody order that is outside of Indiana; or

2 (2) at least one hundred (100) miles from the individual's
3 county of residence;

4 the court shall grant physical custody of the child approximately
5 seventy-five percent (75%) of the time each year to the parent who
6 does not move and who initiates a custody modification proceeding
7 under this chapter and the remaining twenty-five percent (25%) of
8 the time each year physical custody shall be granted to the parent
9 who moves or intends to move.

10 (c) Upon request of either party, the court shall set the matter for a
11 hearing for the purposes of reviewing and modifying, if appropriate, the
12 custody, visitation, and support orders. The court shall take into
13 account the following in determining whether to modify the custody,
14 visitation, and support orders:

15 (1) The distance involved in the proposed change of residence.

16 (2) The hardship and expense involved for noncustodial parents
17 to exercise visitation rights.

18 ~~(c)~~ (d) Except in cases of extreme hardship, the court may not award
19 attorney's fees.

20 SECTION 24. IC 31-17-4-1.5 IS ADDED TO THE INDIANA
21 CODE AS A NEW SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2000]: Sec. 1.5. (a) This section applies
23 whenever the court does not order joint physical custody under
24 IC 31-14-13-2 or IC 31-17-2-8.

25 (b) The court shall order the visitation periods prescribed by
26 this section unless the court enters into the record written findings
27 of fact and conclusions of law that state why disregarding the
28 visitation periods prescribed by this section is appropriate.

29 (c) The noncustodial parent is entitled to exercise visitation at
30 reasonable times and places. However, if the parties are not able to
31 agree on the times and places for exercising reasonable visitation,
32 the minimum visitation to which the noncustodial parent is entitled
33 is as follows:

34 (1) Alternating weekends from 6 p.m. Friday until 7 p.m.
35 Sunday.

36 (2) In years ending in an odd number:

37 (A) from 6 p.m. until 9 p.m. the night before the child's
38 birthday, during which period the noncustodial parent is
39 simultaneously entitled to visitation with the child whose
40 birthday is the following day and any sibling of the child
41 with whom the noncustodial parent has visitation rights;

42 (B) Memorial Day weekend from 6 p.m. Friday until 7 p.m.



- 1 **Monday;**
- 2 **(C) Independence Day holiday from 6 p.m. July 3 until 7**
- 3 **p.m. July 5;**
- 4 **(D) Thanksgiving holiday from 6 p.m. Wednesday until 7**
- 5 **p.m. Sunday;**
- 6 **(E) Christmas holiday from 5 p.m. to 11 p.m. on Christmas**
- 7 **Eve and from 6 p.m. December 26 until 7 p.m. January 1;**
- 8 **and**
- 9 **(F) Martin Luther King, Jr. holiday from 7 p.m. on the day**
- 10 **before the state holiday until 7 p.m. on the state holiday.**
- 11 **(3) In years ending in an even number:**
- 12 **(A) the child's birthday, during which period the**
- 13 **noncustodial parent is simultaneously entitled to visitation**
- 14 **with the child having the birthday and any sibling of the**
- 15 **child with whom the noncustodial parent has visitation**
- 16 **rights;**
- 17 **(B) Easter weekend from 6 p.m. Good Friday until 7 p.m.**
- 18 **Easter Sunday;**
- 19 **(C) Labor Day weekend from 6 p.m. Friday until 7 p.m.**
- 20 **Monday;**
- 21 **(D) Halloween evening from 6 p.m. until 9 p.m.;**
- 22 **(E) Christmas holiday from 6 p.m. December 20 until 6**
- 23 **p.m. December 26 except for the period from 5 p.m. to 11**
- 24 **p.m. on Christmas Eve; and**
- 25 **(F) the child's spring break from school.**
- 26 **(4) The noncustodial parent's birthday.**
- 27 **(5) Mother's Day weekend if the noncustodial parent is the**
- 28 **child's mother or Father's Day weekend if the noncustodial**
- 29 **parent is the child's father.**
- 30 **(6) This subdivision applies to visitation with a child who is an**
- 31 **infant or preschool age. Two (2) weeks in June and two (2)**
- 32 **weeks in July:**
- 33 **(A) as chosen by the noncustodial parent; and**
- 34 **(B) to be determined by May 1 of each year.**
- 35 **Visitation by the custodial parent is not permitted during the**
- 36 **periods specified under this subdivision.**
- 37 **(7) This subdivision applies to visitation with a child who is**
- 38 **school age. Two (2) nonconsecutive three (3) week periods:**
- 39 **(A) to be chosen by the noncustodial parent; and**
- 40 **(B) to be determined by May 1 of each year.**
- 41 **The custodial parent is also entitled to a similar period with**
- 42 **the child without interruption. Visitation by the custodial**

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- 1 parent is not permitted during the periods specified under this
2 subdivision.
- 3 (d) Whenever the noncustodial parent exercises visitation, at the
4 beginning of each visitation period the custodial parent shall pick
5 up the child at the residence of the custodial parent or at a
6 mutually agreed upon location. At the end of each visitation period,
7 the custodial parent shall pick up the child at the residence of the
8 noncustodial parent or at a mutually agreed upon location. Each
9 parent shall have the child available for visitation and the child's
10 return to the custodial parent's home at the appropriate time.
- 11 (e) The noncustodial parent shall give the custodial parent three
12 (3) days prior notice if the noncustodial parent does not intend to
13 exercise visitation. However, if an emergency situation exists, the
14 noncustodial parent must give notice to the extent possible under
15 the circumstances.
- 16 (f) Each parent is encouraged to allow family situations such as
17 weddings or funerals of close family members to take precedence
18 over the visitation guidelines under this section.
- 19 (g) The court shall order each parent to supply the other parent
20 with an accurate and a current residence address and telephone
21 number. The court shall order each parent to allow the other
22 parent liberal but reasonable telephone and mail privileges with
23 the child.
- 24 (h) The court shall order the custodial parent to do the
25 following:
- 26 (1) Provide copies of all school and medical reports to the
27 noncustodial parent not later than ten (10) days after
28 receiving the reports.
- 29 (2) Immediately notify the noncustodial parent about a
30 medical emergency.
- 31 (3) Inform the noncustodial parent of school and social
32 functions permitting parental participation not later than
33 twenty-four (24) hours after the custodial parent learns about
34 the function.
- 35 (i) The noncustodial parent is entitled to attend a school or
36 social function of the child, regardless of whether the function
37 occurs during the noncustodial parent's visitation period. A
38 custodial parent may not prohibit a child from attending a school
39 function as the result of the custodial parent's inability to attend
40 the function whenever the noncustodial parent is available to
41 supervise the child at the function. Whenever the custodial parent
42 is unable to attend a school function with the child, the



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noncustodial parent may attend the function with the child.

(j) A parent may not deny visitation or child support as a result of the other parent's failure to comply with a court order.

SECTION 25. IC 31-17-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) 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 visitation 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) shall order the custodial parent confined in the county jail for seven (7) days for each violation of the court's order;**
- (4) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and
- ~~(4)~~ **(5)** may order the custodial parent to perform community service without compensation in a manner specified by the court.

(b) Whenever a petition for enforcement of a visitation order is filed, a noncustodial parent may deposit child support payments in an escrow account of the court clerk. The child support payments shall be held in the escrow account until the court finds that the visitation order is complied with.

SECTION 26. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2000]: IC 31-17-2-13; IC 31-17-2-14; IC 31-17-2-15.

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