
HOUSE BILL No. 1040

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-14-11; IC 31-16.

Synopsis: Support obligations while incarcerated. Provides that a court, in establishing or modifying a child support order, is prohibited from considering a reduction or elimination of a parent's income due to the parent's incarceration.

Effective: July 1, 2011.

Cheatham

January 5, 2011, read first time and referred to Committee on Family, Children and Human Affairs.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1040



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 31-14-11-2, AS AMENDED BY P.L.80-2010,
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 2. (a) **Subject to section 2.5 of this chapter**, the
4 court may order either or both parents to pay any reasonable amount for
5 child support after considering all relevant factors, including the
6 following:
7 (1) The financial resources of the custodial parent.
8 (2) The standard of living the child would have enjoyed had the
9 parents been married and remained married to each other.
10 (3) The physical and mental condition of the child.
11 (4) The child's educational needs.
12 (5) The financial resources and needs of the noncustodial parent.
13 (b) The court shall order that child support payments ordered under
14 this section be immediately withheld from the income of the parent
15 obligated to pay child support as provided under IC 31-16-15-0.5.
16 (c) The court shall order a custodial parent or third party under
17 section 9 of this chapter who receives child support to obtain an



1 account at a financial institution unless:

- 2 (1) the custodial parent or third party files a written objection
 3 before a child support order is issued; and
 4 (2) the court finds that good cause exists to exempt the custodial
 5 parent or third party from the account requirement.

6 A custodial parent or third party ordered to obtain an account shall
 7 provide the clerk of the circuit court and the state central collection unit
 8 with an account number and any other information necessary to transfer
 9 funds to the account.

10 (d) In accordance with its policies, a financial institution may
 11 restrict or deny services to a person ordered to obtain an account under
 12 this section.

13 SECTION 2. IC 31-14-11-2.5 IS ADDED TO THE INDIANA
 14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2011]: **Sec. 2.5. In establishing or modifying**
 16 **a child support order, a court may not consider a reduction or**
 17 **elimination of a parent's income due to the parent's incarceration.**

18 SECTION 3. IC 31-14-11-8 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. **Subject to section**
 20 **2.5 of this chapter**, a support order may be modified or revoked upon
 21 a showing:

- 22 (1) of a substantial change in circumstances that makes the terms
 23 unreasonable; or
 24 (2) that:
 25 (A) a person has been ordered to pay an amount in child
 26 support that differs by more than twenty percent (20%) from
 27 the amount that would be ordered by applying the child
 28 support guidelines; and
 29 (B) the support order requested to be modified or revoked was
 30 issued at least twelve (12) months before the petition
 31 requesting modification was filed.

32 SECTION 4. IC 31-16-6-1 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) **Subject to**
 34 **section 1.5 of this chapter**, in an action for dissolution of marriage
 35 under IC 31-15-2, legal separation under IC 31-15-3, or child support
 36 under IC 31-16-2, the court may order either parent or both parents to
 37 pay any amount reasonable for support of a child, without regard to
 38 marital misconduct, after considering all relevant factors, including:

- 39 (1) the financial resources of the custodial parent;
 40 (2) the standard of living the child would have enjoyed if:
 41 (A) the marriage had not been dissolved; or
 42 (B) the separation had not been ordered;

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1 (3) the physical or mental condition of the child and the child's
 2 educational needs; and
 3 (4) the financial resources and needs of the noncustodial parent.
 4 (b) The court shall order a custodial parent or third party under
 5 IC 31-16-10-1 who receives child support to obtain an account at a
 6 financial institution unless:
 7 (1) the custodial parent or third party files a written objection
 8 before a child support order is issued; and
 9 (2) the court finds that good cause exists to exempt the custodial
 10 parent or third party from the account requirement.
 11 A custodial parent or third party ordered to obtain an account shall
 12 provide the clerk of the circuit court or other person or entity acting as
 13 assignee or trustee for remittance with an account number and any
 14 other information necessary to transfer funds to the account.
 15 (c) In accordance with its policies, a financial institution may
 16 restrict or deny services to a person ordered to obtain an account under
 17 this section.
 18 (d) This section may not be construed to require the clerk of the
 19 circuit court to remit child support payments by electronic funds
 20 transfer.
 21 SECTION 5. IC 31-16-6-1.5 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2011]: **Sec. 1.5. In establishing or modifying a child support
 24 order, a court may not consider a reduction or elimination of a
 25 parent's income due to the parent's incarceration.**
 26 SECTION 6. IC 31-16-8-1, AS AMENDED BY P.L.103-2007,
 27 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2011]: Sec. 1. (a) Provisions of an order with respect to child
 29 support or an order for maintenance (ordered under IC 31-16-7-1 or
 30 IC 31-1-11.5-9(c) before their repeal) may be modified or revoked.
 31 (b) Except as provided in section 2 of this chapter **and subject to**
 32 **IC 31-16-6-1.5**, modification may be made only:
 33 (1) upon a showing of changed circumstances so substantial and
 34 continuing as to make the terms unreasonable; or
 35 (2) upon a showing that:
 36 (A) a party has been ordered to pay an amount in child support
 37 that differs by more than twenty percent (20%) from the
 38 amount that would be ordered by applying the child support
 39 guidelines; and
 40 (B) the order requested to be modified or revoked was issued
 41 at least twelve (12) months before the petition requesting
 42 modification was filed.

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1 (c) Modification under this section is subject to IC 31-25-4-17(a)(6).

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