

IC 31-17-3.5

Chapter 3.5. Security to Secure Custody and Parenting Time Orders

IC 31-17-3.5-1

Bonds; requirements

Sec. 1. A bond required under this article to secure enforcement of a custody order or parenting time order must:

- (1) be in writing; and
- (2) be secured by:
 - (A) at least one (1) resident freehold surety; or
 - (B) a commercial insurance company.

As added by P.L.171-2001, SEC.10. Amended by P.L.68-2005, SEC.41.

IC 31-17-3.5-2

Bonds; form

Sec. 2. A bond described in section 1 of this chapter may be prepared in substantially the following form:

STATE OF INDIANA)
) SS:
 COUNTY OF _____)
)
)
 IN THE MATTER OF:)
)
)
 Name of Parent (As the Principal))
)
 Name of Parent (As the Obligee))
)
)
 CHILD:)
)
 Name of Child)
)

KNOW ALL MEN BY THESE PRESENTS, that we _____, as Principal, and _____, as Surety, are held and firmly bound unto _____, as Obligee, in the penal sum of _____ Dollars (\$_____), for the payment of which well and truly to be made we hereby bind ourselves and our heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, an Order was duly made and entered by the above Court in the State of Indiana, County of _____, dated _____, defining custody, parenting time, and support rights regarding the named children.

NOW THEREFORE, the conditions of this obligation are such that:

- 1. No right of action on this bond shall be granted for the use or benefit of any individual, partnership, corporation, or

- other entity, other than the named Obligee.
2. It is agreed that neither this bond nor the obligation of this bond, nor any interest in this bond, may be assigned without the prior express written consent of the Surety.
 3. Payment under this bond shall be conditioned upon the Obligee's, or the representative of the Obligee's, filing a motion with the court seeking a declaration of forfeiture of the bond and the Court's finding and entry of a final judgment ordering the Principal and Surety to make such payment. A certified copy of the filing shall be provided to the Surety at its address of record. The Surety shall make payment within thirty (30) days of receiving notification of the final judgment directly to a Trustee appointed by the Court who shall administer the funds in a fiduciary capacity.
 4. The Surety shall not be liable hereunder for any amount larger than the face amount of this bond.
 5. This bond and the obligation hereunder shall terminate and be of no further effect if the Court order requiring it is modified in any way without the Surety's consent, the Court order expires, or this cause is removed to another jurisdiction.
 6. The Surety may file a motion with the Court for discharge of this bond and its obligation hereunder for any good cause. Good cause includes, but is not limited to, misrepresentation or fraud in the initial application for this bond, nonpayment of premium, loss of collateral, or resignation of the Indemnitor. The Surety shall give notice of any such motion to the Obligee.

NOW THEREFORE, if said Principal shall faithfully comply with the requirements and conditions of said Court Order within the limitations and parameters set forth therein, then this Obligation shall be void, otherwise it shall remain in full force and effect.

In witness whereof, each party to this bond has caused it to be executed at the place and on the date indicated below.

Signed, sealed and dated on this ____ day of ____, 20__.

Principal:

Surety:

(Name and address of Principal)

(Name and address of Surety)

(Signature of Principal)
attorney-in-fact)

(C o u n t e r s i g n e d b y

(Surety seal)

Witness:

As added by P.L.171-2001, SEC.10. Amended by P.L.68-2005, SEC.42.

IC 31-17-3.5-3

Forfeiture; use of proceeds

Sec. 3. Upon forfeiture, the proceeds of security, a bond, or other

guarantee ordered to secure enforcement of a custody order or parenting time order under this article may only be used to:

- (1) reimburse the nonviolating party for actual costs or damages incurred in upholding the court's order;
- (2) locate and return the child to the residence as set forth in the court's order; or
- (3) reimburse reasonable fees and court costs to the court appointed trustee.

As added by P.L.171-2001, SEC.10. Amended by P.L.68-2005, SEC.43.

IC 31-17-3.5-4

Forfeiture; excess proceeds

Sec. 4. Upon forfeiture, the proceeds of the security, a bond, or other guarantee ordered to secure enforcement of a custody order or parenting time order under this article that are not applied to the expenses described in section 3 of this chapter must be applied toward:

- (1) the child's postsecondary education; or
- (2) the support and maintenance of the child.

As added by P.L.171-2001, SEC.10. Amended by P.L.68-2005, SEC.44; P.L.2-2007, SEC.363.