

SENATE BILL No. 102

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-92.7; IC 31-15-7-2; IC 31-16-6.

Synopsis: Spousal support and educational support. Adds to the list of factors that a court may consider when making findings concerning spousal maintenance. Allows a court to award spousal maintenance as appropriate, but not to exceed: (1) a period of time that equals the duration of the marriage; or (2) an annual amount, including child support obligations for any child of the marriage, equivalent to 40% of the payor spouse's annual salary. Allows a court to issue an educational support order until a child reaches 26 years of age.

Effective: July 1, 2018.

Delph

January 3, 2018, read first time and referred to Committee on Judiciary.



Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 102

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 31-9-2-92.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]: **Sec. 92.7. "Postsecondary educational institution", for**
4 **purposes of IC 31-16-6, means a postsecondary educational**
5 **institution that provides an organized two (2) year or longer**
6 **program of collegiate grade directly creditable toward a**
7 **baccalaureate or other undergraduate degree.**

8 SECTION 2. IC 31-15-7-2 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. A court may make
10 the following findings concerning maintenance:

- 11 (1) If the court finds a spouse to be physically or mentally
12 incapacitated to the extent that the ability of the incapacitated
13 spouse to support himself or herself is materially affected, the
14 court may find that maintenance for the spouse is necessary
15 during the period of incapacity, subject to further order of the
16 court.
17 (2) If the court finds that:



- 1 (A) a spouse lacks sufficient property, including marital
 2 property apportioned to the spouse, to provide for the spouse's
 3 needs; and
 4 (B) the spouse is the custodian of a child whose physical or
 5 mental incapacity requires the custodian to forgo employment;
 6 the court may find that maintenance is necessary for the spouse in
 7 an amount and for a period of time that the court considers
 8 appropriate.
- 9 (3) After considering:
- 10 (A) the educational level of each spouse at the time of
 11 marriage and at the time the action is commenced;
 12 (B) whether an interruption in the education, training, or
 13 employment of a spouse who is seeking maintenance occurred
 14 during the marriage; ~~as a result of homemaking or child care~~
 15 ~~responsibilities; or both;~~
 16 (C) the earning capacity of each spouse, including educational
 17 background, training, employment skills, work experience, and
 18 length of presence in or absence from the job market; ~~and~~
 19 (D) the time and expense necessary to acquire sufficient
 20 education, ~~or~~ training, **or job experience** to enable the spouse
 21 who is seeking maintenance to find appropriate employment;
 22 **(E) the duration of the marriage;**
 23 **(F) the age, physical condition, and emotional condition of**
 24 **each spouse;**
 25 **(G) any financial or other contribution made by either**
 26 **spouse to the education, training, vocational skills, or**
 27 **earning capacity of the other spouse;**
 28 **(H) whether the spouse seeking maintenance lacks**
 29 **sufficient property or ability to support himself or herself;**
 30 **(I) the standard of living established during the marriage;**
 31 **(J) any lost earning capacity of either spouse as a result of**
 32 **the spouse's marital responsibilities;**
 33 **(K) the ability of the payor spouse to pay; and**
 34 **(L) any other factor the court determines to be relevant;**
 35 a court may find that ~~rehabilitative~~ maintenance for the spouse
 36 seeking maintenance is necessary in an amount and for a period
 37 of time that the court considers appropriate, but not to exceed
 38 ~~three (3) years from the date of the final decree: a period of time~~
 39 **equal to the duration of the marriage or an annual amount**
 40 **that, combined with any child support obligation for a child**
 41 **of the marriage, exceeds the equivalent of forty percent (40%)**
 42 **of the payor spouse's annual salary.**



1 SECTION 3. IC 31-16-6-2, AS AMENDED BY P.L.2-2007,
 2 SECTION 361, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) **Except as provided in**
 4 **subsection (c)**, the child support order or an educational support order
 5 may also include, where appropriate:

6 (1) amounts for the child's education in elementary and secondary
 7 schools and at postsecondary educational institutions, taking into
 8 account:

9 (A) the child's aptitude and ability;

10 (B) the child's reasonable ability to contribute to educational
 11 expenses through:

12 (i) work;

13 (ii) obtaining loans; and

14 (iii) obtaining other sources of financial aid reasonably
 15 available to the child and each parent; and

16 (C) the ability of each parent to meet these expenses;

17 (2) special medical, hospital, or dental expenses necessary to
 18 serve the best interests of the child; and

19 (3) fees mandated under Title IV-D of the federal Social Security
 20 Act (42 U.S.C. 651 through 669).

21 (b) If the court orders support for a child's educational expenses at
 22 a postsecondary educational institution under subsection (a), the court
 23 shall reduce other child support for that child that:

24 (1) is duplicated by the educational support order; and

25 (2) would otherwise be paid to the custodial parent.

26 **(c) The court may not order support for a child's educational**
 27 **expenses at a postsecondary educational institution under**
 28 **subsection (a) if the child is twenty-six (26) years of age or older.**

29 SECTION 4. IC 31-16-6-6, AS AMENDED BY P.L.207-2013,
 30 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2018]: Sec. 6. (a) The duty to support a child under this
 32 chapter, which does not include support for educational needs, ceases
 33 when the child becomes nineteen (19) years of age unless any of the
 34 following conditions occurs:

35 (1) The child is emancipated before becoming nineteen (19) years
 36 of age. In this case the child support, except for the educational
 37 needs outlined in section 2(a)(1) of this chapter, terminates at the
 38 time of emancipation, although an order for educational needs
 39 may continue in effect until further order of the court.

40 (2) The child is incapacitated. In this case the child support
 41 continues during the incapacity or until further order of the court.

42 (3) The child:



- 1 (A) is at least eighteen (18) years of age;
 2 (B) has not attended a secondary school or postsecondary
 3 educational institution for the prior four (4) months and is not
 4 enrolled in a secondary school or postsecondary educational
 5 institution; and
 6 (C) is or is capable of supporting himself or herself through
 7 employment.
- 8 In this case the child support terminates upon the court's finding
 9 that the conditions prescribed in this subdivision exist. However,
 10 if the court finds that the conditions set forth in clauses (A)
 11 through (C) are met but that the child is only partially supporting
 12 or is capable of only partially supporting himself or herself, the
 13 court may order that support be modified instead of terminated.
- 14 (b) For purposes of determining if a child is emancipated under
 15 subsection (a)(1), if the court finds that the child:
 16 (1) is on active duty in the United States armed services;
 17 (2) has married; or
 18 (3) is not under the care or control of:
 19 (A) either parent; or
 20 (B) an individual or agency approved by the court;
 21 the court shall find the child emancipated and terminate the child
 22 support.
- 23 (c) If a court has established a duty to support a child in a court
 24 order issued before July 1, 2012, the:
 25 (1) parent or guardian of the child; or
 26 (2) child;
 27 may file a petition for educational needs until the child becomes
 28 twenty-one (21) years of age.
- 29 (d) If a court has established a duty to support a child in a court
 30 order issued after June 30, 2012, the:
 31 (1) parent or guardian of the child; or
 32 (2) child;
 33 may file a petition for educational needs until the child becomes
 34 nineteen (19) years of age.
- 35 (c) A:
 36 (1) parent or guardian of a child; or
 37 (2) child;
 38 may file a petition for educational support until the child becomes
 39 twenty-six (26) years of age.
- 40 (d) An order for support for educational expenses at a
 41 postsecondary educational institution terminates not later than the
 42 date the child becomes twenty-six (26) years of age.



1 (e) If:
2 (1) an order was issued ~~after June 30, 2012,~~ **before July 1, 2018,**
3 that denied support for educational needs to a child who was less
4 than ~~twenty-one (21)~~ **twenty-six (26)** years of age at the time the
5 petition for educational needs was filed; and
6 (2) support for educational needs was denied based on the fact
7 that the child was older than eighteen (18) years of age;
8 notwithstanding any other law, a parent or guardian of the child or the
9 child may file with the court a subsequent petition for educational
10 needs. The court shall consider the petition on the merits in accordance
11 with this section. ~~and may not consider the absence of subsection (c)~~
12 ~~from law at the time of the initial filing.~~

