

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE ENROLLED ACT No. 292

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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:*

SECTION 1. IC 31-9-2-83, AS AMENDED BY P.L.207-2013, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 83. "Noncustodial parent", for purposes of ~~IC 31-14-13-10~~, IC 31-14-15, IC 31-16-6-1.5, and IC 31-17-4, means the parent who is not the custodial parent.

SECTION 2. IC 31-9-2-84.6, AS ADDED BY P.L.50-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 84.6. "Nonrelocating individual", for purposes of IC 31-14-13 and IC 31-17-2.2, means an individual who has, or has filed an action seeking:

- (1) custody of the child, **whether by court order or by paternity affidavit under IC 16-37-2;**
- (2) parenting time with the child, **whether by court order or by paternity affidavit under IC 16-37-2;** or
- (3) visitation with the child under IC 31-17-5.

SECTION 3. IC 31-9-2-84.7, AS ADDED BY P.L.50-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 84.7. "Nonrelocating parent", for purposes of **IC 31-14-13** and IC 31-17-2.2, means a parent of a child who has or is seeking:

- (1) custody of the child, **whether by court order or by paternity**

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**affidavit under IC 16-37-2; or**

(2) parenting time with the child, **whether by court order or by paternity affidavit under IC 16-37-2;**

and does not intend to move the individual's principal residence.

SECTION 4. IC 31-9-2-107.5, AS ADDED BY P.L.50-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 107.5. "Relocating individual", for purposes of **IC 31-14-13 and IC 31-17-2.2**, means an individual who has or is seeking:

(1) custody of a child, **whether by court order or by paternity affidavit under IC 16-37-2; or**

(2) parenting time with a child, **whether by court order or by paternity affidavit under IC 16-37-2;**

and intends to move the individual's principal residence. The term does not include an individual granted visitation rights under IC 31-17-5.

SECTION 5. IC 31-9-2-107.7, AS ADDED BY P.L.50-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 107.7. "Relocation", for purposes of **IC 31-14-13 and IC 31-17-2.2**, means a change in the primary residence of an individual for a period of at least sixty (60) days.

SECTION 6. IC 31-14-13-10 IS REPEALED [EFFECTIVE JULY 1, 2019]. ~~Sec. 10. If an individual who has been awarded custody of or parenting time with a child under this article (or IC 31-6-6.1-11 before its repeal) intends to move the individual's residence, the individual must:~~

~~(1) file a notice of that intent with the clerk of the court that issued the custody or parenting time order; and~~

~~(2) send a copy of the notice to each nonrelocating individual in accordance with IC 31-17-2.2.~~

SECTION 7. IC 31-14-13-10.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 10.2. Except as provided in IC 31-17-2.2-4, an individual who has or is seeking:**

**(1) custody of a child;**

**(2) parenting time with a child; or**

**(3) grandparent's visitation under IC 31-17-5;**

**shall at all times keep all other individuals who have or are seeking rights with the child (as described in subdivisions (1) through (3)) advised of the individual's home address and all of the individual's telephone numbers and electronic mail addresses. Information required by this section must be provided in writing, including electronically, to each individual entitled to the information.**



SECTION 8. IC 31-14-13-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 10.5. The following must comply with IC 31-17-2.2:**

**(1) A nonrelocating individual.**

**(2) A relocating individual.**

SECTION 9. IC 31-15-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. (a) To promote the amicable settlements of disputes that have arisen or may arise between the parties to a marriage attendant upon the dissolution of their marriage, the parties may agree in writing to provisions for:

- (1) the maintenance of either of the parties;
- (2) the disposition of any property owned by either or both of the parties; ~~and~~
- (3) the custody and support of the children of the parties; **and**
- (4) the relocation of the children of the parties.**

(b) In an action for dissolution of marriage:

- (1) the terms of the agreement, if approved by the court, shall be incorporated and merged into the decree and the parties shall be ordered to perform the terms; or
- (2) the court may make provisions for:
  - (A) the disposition of property;
  - (B) child support;
  - (C) maintenance; and
  - (D) custody;

as provided in this title.

(c) The disposition of property settled by an agreement described in subsection (a) and incorporated and merged into the decree is not subject to subsequent modification by the court, except as the agreement prescribes or the parties subsequently consent.

SECTION 10. IC 31-17-2.2-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 0.5. Except as provided in section 4 of this chapter, an individual who has or is seeking:**

- (1) custody of a child;**
- (2) parenting time with a child; or**
- (3) grandparent's visitation under IC 31-17-5;**

**shall at all times keep all other individuals who have or are seeking rights with the child (as described in subdivisions (1) through (3)) advised of the individual's home address and all of the individual's telephone numbers and electronic mail addresses. Information required by this section must be provided in writing, including**



**electronically, to each individual entitled to the information.**

SECTION 11. IC 31-17-2.2-1, AS ADDED BY P.L.50-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) **Except as provided in subsection (b),** a relocating individual must file a notice of the intent to move with the clerk of the court that:

- (1) issued the custody order or parenting time order; or
- (2) if subdivision (1) does not apply, has jurisdiction over the legal proceedings concerning the custody of or parenting time with a child.

and send a copy of the notice to any nonrelocating individual:

**(b) A relocating individual is not required to file a notice of intent to move with the clerk of the court if:**

- (1) the relocation has been addressed by a prior court order, including a court order relieving the relocating individual of the requirement to file a notice; and**

**(2) the relocation will:**

**(A) result in a decrease in the distance between the relocating individual's residence and the nonrelocating individual's residence; or**

**(B) result in an increase of not more than twenty (20) miles in the distance between the relocating individual's residence and the nonrelocating individual's residence;**

**and allow the child to remain enrolled in the child's current school.**

~~(b)~~ **(c) Upon motion of a party, the court shall set the matter for a hearing to allow or restrain the relocation of a child and to review and modify, if appropriate, a custody order, parenting time order, grandparent visitation order, or child support order. The court's authority to modify a custody order, parenting time order, grandparent visitation order, or child support order is not affected by the fact that a relocating individual is exempt from the requirement to file a notice of relocation by subsection (b).** The court shall take into account the following in determining whether to modify a custody order, parenting time order, grandparent visitation order, or child support order:

- (1) The distance involved in the proposed change of residence.
- (2) The hardship and expense involved for the nonrelocating individual to exercise parenting time or grandparent visitation.
- (3) The feasibility of preserving the relationship between the nonrelocating individual and the child through suitable parenting time and grandparent visitation arrangements, including



consideration of the financial circumstances of the parties.

(4) Whether there is an established pattern of conduct by the relocating individual, including actions by the relocating individual to either promote or thwart a nonrelocating individual's contact with the child.

(5) The reasons provided by the:

(A) relocating individual for seeking relocation; and

(B) nonrelocating parent for opposing the relocation of the child.

(6) Other factors affecting the best interest of the child.

**(d) A court may order the relocating individual and the nonrelocating individual to participate in mediation or another alternative dispute resolution process before a hearing under this section:**

**(1) on its own motion; or**

**(2) upon the motion of any party.**

**(e) If a relocation occurs, all existing orders for custody, parenting time, grandparent visitation, and child support remain in effect until modified by the court.**

**(e) (f) The court may award reasonable attorney's fees for a motion filed under this section in accordance with IC 31-15-10 and IC 34-52-1-1(b).**

SECTION 12. IC 31-17-2.2-3, AS AMENDED BY P.L.1-2007, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. ~~(a)~~ Except as provided in section 4 of this chapter, an individual required to file a notice under ~~IC 31-14-13-10~~ or section 1 of this chapter must:

~~(1) send the notice to each nonrelocating individual:~~

~~(A) by registered or certified mail; and~~

~~(B) not later than ninety (90) days before the date that the relocating individual intends to move; and~~

**(1) file and serve the notice on each nonrelocating individual who is a party to the action in accordance with the Indiana Rules of Trial Procedure not later than thirty (30) days before the date of the intended relocation or not more than fourteen (14) days after the relocating individual becomes aware of the relocation, whichever is sooner;**

**(2) send the notice to any nonrelocating individual who is not a party to the action by registered or certified mail not later than thirty (30) days before the date of the intended relocation or not more than fourteen (14) days after the relocating individual becomes aware of the relocation, whichever is**



sooner; and

~~(2)~~ **(3)** provide the following information in the notice:

(A) The intended new residence, including the:

(i) address; and

(ii) mailing address of the relocating individual, if the mailing address is different than the address under item (i).

~~(B)~~ **The home telephone number of the new residence.**

~~(C)~~ **Any other applicable telephone number (B) All telephone numbers** for the relocating individual.

~~(D)~~ **(C)** The date that the relocating individual intends to move.

~~(E)~~ **(D)** A brief statement of the specific reasons for the proposed relocation of the child.

~~(F)~~ **A proposal for a revised schedule of parenting time or grandparent visitation with the child.**

**(E) A statement that the relocating individual either does or does not believe that a revision of parenting time or grandparent visitation is necessary.**

~~(G)~~ **(F)** A statement that a **nonrelocating** parent must file an objection to a response regarding the relocation of the child with the court not later than ~~sixty (60)~~ **twenty (20)** days after receipt service of the notice.

~~(H)~~ **(G)** The following statements:

**(i) A statement that a party may file a petition requesting an order to prevent the temporary or permanent relocation of a child.**

**(ii)** A statement that a nonrelocating individual may file a petition to modify a custody order, parenting time order, grandparent visitation order, or child support order.

**(H) A statement that all existing orders for custody, parenting time, grandparent visitation, and child support remain in effect until modified by the court.**

~~(b)~~ Except as provided in section 4 of this chapter, if the relocating individual is unable to provide the information required under subsection (a)(2) not later than ninety (90) days before the relocating individual intends to move, the relocating individual shall provide the information in the manner required under subsection (a) not later than ten (10) days after the date that the relocating individual obtains the information required to be provided under subsection (a)(2). However, the relocating individual must provide all the information required under subsection (a)(2) not later than thirty (30) days before the relocating individual intends to move to the new residence.



SECTION 13. IC 31-17-2.2-4, AS ADDED BY P.L.50-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. If a court finds that disclosure of the information required under **IC 31-14-13-10.2** or section **0.5** or 3 of this chapter creates a significant risk of substantial harm to the **relocating individual required to provide the disclosure** or to the child, the court may order:

- (1) that the address, the telephone number, or other identifying information of the **relocating individual** or child not be **shared with other individuals** or disclosed in the pleadings, other documents filed in the proceeding, or the final order;
- (2) that the information required under section 3 of this chapter be maintained by the clerk of the court in a secure location separate from the pending case file;
- (3) that the notice requirements under ~~IC 31-14-13-10~~ or this chapter be waived to the extent necessary to protect the **relocating individual** or child from significant risk of substantial harm; or
- (4) other remedial action that the court considers necessary to facilitate the legitimate needs of the parties and the best interest of the child.

SECTION 14. IC 31-17-2.2-5, AS ADDED BY P.L.50-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) ~~Not later than sixty (60) days after receipt of the notice from the relocating individual under IC 31-14-13-10 or this chapter, a nonrelocating parent may file a motion seeking a temporary or permanent order to prevent the relocation of a child.~~ **Except as provided in subsection (b), a nonrelocating parent shall file a response not more than twenty (20) days after the day the nonrelocating parent is served notice from the relocating individual under section 3 of this chapter. The nonrelocating parent's response must include one (1) of the following:**

- (1) **A statement that the nonrelocating parent does not:**
  - (A) **object to the relocation of the child; and**
  - (B) **request the modification of any custody, parenting time, grandparent visitation, or child support order.**
- (2) **The following:**
  - (A) **A statement that the nonrelocating parent does not object to the relocation of the child.**
  - (B) **A motion requesting the modification of a custody, parenting time, grandparent visitation, or child support order as a result of the relocation.**
  - (C) **A request for a hearing on the motion filed under**



clause (B).

**(3) The following:**

**(A) A statement that the nonrelocating parent objects to the relocation of the child.**

**(B) A motion requesting:**

**(i) a temporary or permanent order to prevent the relocation of the child; and**

**(ii) the modification of a custody, parenting time, grandparent visitation, or child support order as a result of the relocation.**

**(C) A request for a hearing on the motion filed under clause (B).**

**(b) A nonrelocating parent is not required to file a response under subsection (a) if the parties have executed and filed with the court a written agreement resolving all issues related to custody, parenting time, grandparent visitation, and child support resulting from the relocation of the child. The agreement must include a child support worksheet to be signed by the parties and attached to the agreement, if the agreement results in a modification of support.**

**(c) A motion filed under subsection (a)(2) or (a)(3) must state whether the relocating individual and the nonrelocating parent have participated in mediation or another alternate dispute resolution process regarding the relocation of the child.**

~~(b)~~ **(d) On the request of either party, the court shall hold a full evidentiary hearing to grant or deny a allow or restrain the relocation motion under subsection (a). of the child and to review and modify, if appropriate, a custody order, parenting time order, grandparent visitation order, or child support order.**

~~(c)~~ **(e) The relocating individual has the burden of proof that the proposed relocation is made in good faith and for a legitimate reason.**

~~(d)~~ **(f) If the relocating individual meets the burden of proof under subsection (c); (e), the burden shifts to the nonrelocating parent to show that the proposed relocation is not in the best interest of the child.**

~~(e)~~ **(g) If the nonrelocating parent fails to file a motion response under subsection (a), the relocating individual who has custody of the child may relocate to the new residence.**

SECTION 15. IC 31-17-2.2-6, AS ADDED BY P.L.50-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) If a nonrelocating parent files a motion under ~~section 5~~ **section 5(a)(3)** of this chapter, the court, after notice and an opportunity to be heard or after compliance with Trial Rule





65(B), may grant a temporary order restraining the relocation of a child or order the child to be returned to the nonrelocating parent if the court finds:

(1) that the notice required under ~~IC 31-14-13-10~~ **or section 3 of** this chapter was not served in a timely manner and the parties have not presented an agreement ~~concerning a parenting time schedule;~~ **regarding the relocation of the child;**

(2) that the child has been relocated without:

(A) the appropriate notice;

(B) an agreement between the parties; or

(C) a court order; or

(3) from an examination of the evidence presented at the temporary hearing, that there is a likelihood that, after a final hearing, the court will not approve the relocation of the child.

(b) The court may grant a temporary order permitting the relocation of the child pending a final hearing if the court:

(1) determines that the notice required under ~~IC 31-14-13-10~~ **or section 3 of** this chapter was provided in a timely manner;

(2) issues ~~an order for a revised schedule orders that may be~~ **necessary** for temporary **custody**, parenting time, **support, and grandparent visitation** with the child; and

(3) reviews the evidence presented at the temporary hearing and determines that there is a likelihood that, after the final hearing, the court will approve the relocation of the child.

(c) If the court issues a temporary order authorizing the ~~relocating individual to move;~~ **relocation of the child** in its final judgment, the court must consider factors:

(1) other than; or

(2) in addition to;

the temporary relocation of the child when issuing a final order.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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