

HOUSE BILL No. 1120

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-43.4; IC 31-16-6.

Synopsis: Support for postsecondary educational expenses. Provides that a child support order or educational support order may not include amounts for a child's educational expenses at a postsecondary educational institution unless the party to whom the order applies has entered into an agreement to pay amounts for the child's educational expenses at a postsecondary educational institution. Makes provisions in an order that include amounts for educational expenses at a postsecondary educational institution void unless the party to whom the order applies has entered into an agreement to pay those expenses. Makes conforming changes to remove references to educational support for postsecondary education.

Effective: July 1, 2014.

Heaton

January 9, 2014, read first time and referred to Committee on Judiciary.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1120



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 31-9-2-43.4 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2014]: **Sec. 43.4. "Educational needs", for purposes of**
- 4 **IC 31-16-6, does not include educational expenses at a**
- 5 **postsecondary educational institution.**
- 6 SECTION 2. IC 31-16-6-2, AS AMENDED BY P.L.2-2007,
- 7 SECTION 361, IS AMENDED TO READ AS FOLLOWS
- 8 [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) The child support order ~~or an~~
- 9 ~~educational support order~~ may also include, where appropriate:
- 10 (1) amounts for the child's education in elementary and secondary
- 11 schools, ~~and at postsecondary educational institutions~~; taking into
- 12 account:
- 13 (A) the child's aptitude and ability;
- 14 (B) the child's reasonable ability to contribute to educational
- 15 expenses through:
- 16 (i) work;



- 1 (ii) obtaining loans; and
 2 (iii) obtaining other sources of financial aid reasonably
 3 available to the child and each parent; and
 4 (C) the ability of each parent to meet these expenses;
 5 (2) special medical, hospital, or dental expenses necessary to
 6 serve the best interests of the child; and
 7 (3) fees mandated under Title IV-D of the federal Social Security
 8 Act (42 U.S.C. 651 through 669).
- 9 (b) If the court orders support for a child's educational expenses at
 10 a postsecondary educational institution under subsection (a); the court
 11 shall reduce other child support for that child that:
 12 (1) is duplicated by the educational support order; and
 13 (2) would otherwise be paid to the custodial parent.
- 14 (b) This subsection applies to all child support orders and
 15 educational support orders. A child support order or an
 16 educational support order may not include amounts for a child's
 17 educational expenses at a postsecondary educational institution
 18 unless the party to whom the order applies has entered into an
 19 agreement to pay amounts for the child's educational expenses at
 20 a postsecondary educational institution.
- 21 (c) A provision in a child support order or educational support
 22 order that includes amounts for a child's educational expenses at
 23 a postsecondary educational institution is void unless the party to
 24 whom the order applies has entered into an agreement to pay
 25 amounts for the child's educational expenses at a postsecondary
 26 educational institution.
- 27 SECTION 3. IC 31-16-6-6, AS AMENDED BY P.L.207-2013,
 28 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2014]: Sec. 6. (a) The duty to support a child under this
 30 chapter, which does not include support for educational needs **outlined**
 31 **in section 2(a)(1) of this chapter**, ceases when the child becomes
 32 nineteen (19) years of age unless any of the following conditions
 33 occurs:
 34 (1) The child is emancipated before becoming nineteen (19) years
 35 of age. In this case the child support, except for the educational
 36 needs outlined in section 2(a)(1) of this chapter, terminates at the
 37 time of emancipation, although an order for educational needs
 38 may continue in effect until further order of the court.
 39 (2) The child is incapacitated. In this case the child support
 40 continues during the incapacity or until further order of the court.
 41 (3) The child:
 42 (A) is at least eighteen (18) years of age;



1 (B) has not attended a secondary school or postsecondary
 2 educational institution for the prior four (4) months and is not
 3 enrolled in a secondary school or postsecondary educational
 4 institution; and

5 (C) is or is capable of supporting himself or herself through
 6 employment.

7 In this case the child support terminates upon the court's finding
 8 that the conditions prescribed in this subdivision exist. However,
 9 if the court finds that the conditions set forth in clauses (A)
 10 through (C) are met but that the child is only partially supporting
 11 or is capable of only partially supporting himself or herself, the
 12 court may order that support be modified instead of terminated.

13 (b) For purposes of determining if a child is emancipated under
 14 subsection (a)(1), if the court finds that the child:

15 (1) is on active duty in the United States armed services;

16 (2) has married; or

17 (3) is not under the care or control of:

18 (A) either parent; or

19 (B) an individual or agency approved by the court;

20 the court shall find the child emancipated and terminate the child
 21 support.

22 (c) If a court has established a duty to support a child in a court
 23 order issued before July 1, 2012, the:

24 (1) parent or guardian of the child; or

25 (2) child;

26 may file a petition for educational needs until the child becomes
 27 twenty-one (21) years of age.

28 (d) If a court has established a duty to support a child in a court
 29 order issued after June 30, 2012, the:

30 (1) parent or guardian of the child; or

31 (2) child;

32 may file a petition for educational needs until the child becomes
 33 nineteen (19) years of age.

34 (e) If:

35 (1) an order was issued after June 30, 2012, that denied support
 36 for educational needs to a child who was less than twenty-one
 37 (21) years of age at the time the petition for educational needs
 38 was filed; and

39 (2) support for educational needs was denied based on the fact
 40 that the child was older than eighteen (18) years of age;

41 notwithstanding any other law, a parent or guardian of the child or the
 42 child may file with the court a subsequent petition for educational



1 needs. The court shall consider the petition on the merits in accordance
2 with this section and may not consider the absence of subsection (c)
3 from law at the time of the initial filing.

