

Members

Rep. Vanessa Summers, Chairperson
Rep. John Day
Rep. David Frizzell
Rep. David Yarde
Sen. Brent Steele
Sen. Brent Waltz
Sen. James Arnold
Sen. Greg Taylor
Gregory A. DeVries
Judge Marianne Vorhees
Robert Bishop, Esq
Bruce Pennamped, Esq



CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Eliza Houston Stephenson, Attorney for the
Committee
Bill Brumbach, Fiscal Analyst for the Committee

Authority: IC 33-24-11-1

MEETING MINUTES¹

Meeting Date: September 14, 2010
Meeting Time: 1:30 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. Vanessa Summers, Chairperson; Rep. John Day; Rep. David Yarde; Sen. James Arnold; Sen. Greg Taylor; Gregory A. DeVries; Judge Marianne Vorhees; Robert Bishop, Esq; Bruce Pennamped, Esq.

Members Absent: Rep. David Frizzell; Sen. Brent Steele; Sen. Brent Waltz.

Representative Vanessa Summers, Chairperson, called the first meeting of the Child Custody and Support Advisory Committee (Committee) to order at 1:40 P.M. The members of the Committee introduced themselves and agreed that the Committee would also meet on October 6, 2010 and October 20, 2010 at 1:30 P.M.

Representative Summers explained that the Committee was going to hear information on two issues at this meeting. She said that she would like to consider: (1) whether the Title IV-D Program is working; and (2) methods for enforcing child support payments other than incarcerating parents.

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative> Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

The Number of Individuals Who Are in Prison for Failing to Pay Child Support

Mr. Tim Brown, Director of Legislative Services for the Department of Correction (DOC), provided a handout² concerning offenders incarcerated for failure to pay child support. Mr. Brown discussed the number of offenders who are currently incarcerated for failure to pay child support, the costs of incarceration for those offenders, and the rate of return of those offenders released from prison.

Senator Taylor, a Committee member, noted that the number of offenders currently incarcerated seemed small compared to how much child support is owed in Indiana. He stated that it is unclear from the information Mr. Brown provided whether the offenders are in prison for failure to pay child support or another crime and the crime of failure to pay child support was just tacked on to that other crime. Mr. Steve Johnson, Executive Director of the Indiana Prosecuting Attorneys Council, stated that the DOC information does not include all the necessary information regarding why an individual is incarcerated. He stated that researchers have been hired to provide information in a study on why offenders are in prison. Mr. DeVries, a Committee member, stated that according to Mr. Johnson's testimony, the information from DOC concerning the most serious charges and secondary charges could not be trusted because the data does not provide the whole picture of why an offender is in prison, and Mr. Johnson agreed. Mr. Pennamped, a Committee member, also noted that the information does not include the number of offenders in jail for being held in contempt for failing to pay child support. Mr. Johnson stated the information does not include information on individuals who are in jail for contempt, individuals on probation, and other relevant information.

In response to a question from Representative Yarde, a Committee member, Mr. Brown stated that for work release and other projects in which offenders are employed, a percentage of the offender's income goes to pay child support and that upon release from prison, an offender still has an obligation to pay any child support owed. In response to an additional question from Representative Yarde, Mr. Bishop, a Committee member, indicated that an Indiana Supreme Court opinion addressed whether an incarcerated individual's child support obligation continues to accrue while the individual is incarcerated. He stated that the child support obligation may be modified to reflect actual income of an individual and that most individuals in prison do not have income. Therefore, additional child support arrears do not tend to accrue while an offender is in prison. However, he stated that a court order can automatically modify a child support obligation when an individual is released from prison. Mr. Bishop stated that court orders modifying an incarcerated individual's child support obligation issued in the county in which he is a deputy prosecutor often require the individual to begin paying child support thirty days after the individual is released from prison.

In response to a question from Representative Summers, Mr. Bishop said that prosecutors may agree to accept payment in an amount less than that owed for child support and let the individual out on a bond instead of incarcerating the individual for failing to pay child support. He said sending individuals to prison or jail for failure to pay child support is the very last thing the prosecutor will do and that the prosecutor will try everything else first to try to make the individuals pay the child support obligation.

In response to a question from Representative Day, a Committee member, Mr. Johnson explained that there are a number of different avenues in trying to increase child support collections. He discussed a project in South Bend in which prosecutors are

² Exhibit 1

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² Exhibit 1

working with local workforce development staff to help individuals who owe child support build skills, such as improving their literacy, and find jobs. He stated that the Indiana Prosecuting Attorneys Council is trying to push this project statewide. Mr. Bishop discussed the federal grant program, Project to Avoid Increasing Delinquency (PAID), which is an initiative to solve child support delinquency problems.

Senator Taylor stated that he was alarmed that the amount of child support owed in Indiana is \$2.2 billion. He asked what the state is doing to remedy child support collections. Mr. Johnson indicated that there are problems with collecting child support in border counties because people work in another state but live in Indiana. He said that Indiana is trying to enter into agreements with other states to be able to collect income to pay child support owed in the state of Indiana. He also stated that the Department of Child Services (DCS) and the Office of the Secretary of Family and Social Services should work together more. In response to a question from Representative Day, Mr. Johnson indicated that legislation was not necessary to expand a project similar to that in South Bend statewide.

Judge Vorhees, a Committee member, discussed how in her county individuals who fail to pay child support may be required to perform community service. She said that a girlfriend or family member of the individual will often pay the child support or the individual will get a job in order to avoid performing community service. She also noted the difficulties in collecting child support when individuals are paid in cash.

Information on Child Support Enforcement

Ms. Cynthia Longest, Deputy Director of the Child Support Bureau, DCS, thanked the Committee members for supporting SB 163 from last session. She provided the Committee members with a handout³ concerning Title IV-D child support enforcement background information. She discussed the following: (1) How the IV-D program has changed and that child support collected is now distributed to families first and money that is left over goes to the state and federal government to reimburse costs for public assistance. (2) How cases become IV-D cases. (3) That every state must have a federally certified statewide automated computer system. (4) That IV-D agencies receive 66% reimbursement of operating expenses from the federal government. (5) That IV-D agencies receive "incentive" funding through a formula based on how well they do in five categories that include paternity, support order establishment, current support, cases paying on arrears, and cost/effectiveness. In response to a request from Senator Taylor, Ms. Longest agreed to provide a list of the top ten states in each of the five categories.

Ms. Longest also provided a handout⁴ concerning collection of child support. She discussed the following: (1) The IV-D collections at the end of fiscal year 2009 were \$583 million. (2) IV-D performance measure historical data. (3) IV-D collection data. (4) The license suspension pilot project. (5) Administrative enforcement methods available through the IV-D program. (6) Income withholding and unemployment compensation collections. In response to a question from Representative Summers, Ms. Longest stated that DCS is constantly looking at what other states are doing to increase collections of child support. She said that DCS has made a huge effort to improve their interface with the federal government so that they can more easily get information about individuals who are delinquent in paying child support.

³ Exhibit 2

⁴ Exhibit 3

Representative Summers expressed concerns with suspending an individual's drivers license or professional license for failure to pay child support. Ms. Longest explained that the point is to collect child support and not to suspend individuals' licenses. She indicated that DCS implemented a pilot project to test theories as to whether individuals who are delinquent in paying child support are more likely to pay when certain enforcement remedies are applied. Ms. Longest said that when individuals were told that their licenses would be suspended if they did not pay their delinquent child support, the individuals were more likely to meet with a prosecutor and try to work out a payment plan to pay the child support. She said threatening to suspend individuals' licenses works as a remedy in collecting child support. The Committee discussed the fact that the enforcement remedies listed on Ms. Longest's handout only apply to Title IV-D cases.

Other Committee Business

Mr. Stuart Showalter, a representative of Indiana Custodial Rights Advocates, provided the Committee members with language for a bill draft concerning electronic communication time.⁵ He discussed the following: (1) A program in Virginia that is similar to the project in South Bend in which prosecutors are working with local workforce development staff. (2) Virtual visitation between a parent and child.

Mr. Robert Monday, a representative of the Children's Rights Council, stated that in the presentations before the Committee he did not see anything about working to ensure that parents spend enough time with their children. He stated that parents who see their children have needs will address those needs and that parents should be ensured time with their children. He indicated that the courts are not enforcing child support and parenting time equally and that child support is being enforced but parenting time is not. He said that the state of Michigan set aside money to use for enforcing parenting time. Senator Taylor explained that noncustodial parents are often afraid to go to court because they owe child support. He asked Mr. Monday how we enforce parenting time in that situation.

Mr. Pennamped noted that the IV-D program addresses child support matters but does not address parenting time. He stated that child support collection goes up when parents are involved in their children's lives. Mr. Monday indicated that some money for the IV-D program comes from the state, so the state should consider using some funds to enforce parenting time.

Mr. Brown clarified that the information from DOC is accurate but that the data does not include why an individual was sent to prison.

Representative Summers adjourned the meeting at 3:05 P.M.

⁵ Exhibit 4

Offenders Currently Incarcerated for Failure to Pay Child Support Snapshot Date 9/9/2010			
	Sex		Total
	Female	Male	
Most Serious Charge	217	12	229
Secondary Charge	2	75	77
Total	219	87	306

Offenders Charged with Failure to Pay Child Support CY2006-2009					
Admissions					
	2006	2007	2008	2009	Total
Most Serious Offense	292	265	271	268	1096
Secondary Offense	70	58	71	47	246
Total	362	323	342	315	1342

Releases					
	2006	2007	2008	2009	Total
Most Serious Offense	265	291	285	320	1161
Secondary Offense	36	32	50	42	160
Total	301	323	335	362	1321

Cost of Incarceration for Offenders Based on CY2009 Releases and Per		
	Released During CY2009	Per Offender
Most Serious Offense	\$5,361,292.93	\$16,754.04
Secondary Offense	\$1,571,149.00	\$37,408.31

Rate of Return CY2006 Releases							
2007							
	# Released CY2006	# Returned During CY2007	% Returned During CY2007	# Returned For Same Offense	% Returned for Same Offense	# Returned For Different Offense	% Returned For Different Offense
Most Serious Offense	265	48	18.11%	40	83.33%	8	16.67%
Secondary Offense	36	7	19.44%	2	28.57%	5	71.43%
Rate of Return CY2006 Releases							
2008							
	# Released CY2006	# Returned During CY2008	% Returned During CY2008	# Returned For Same Offense	% Returned for Same Offense	# Returned For Different Offense	% Returned For Different Offense
Most Serious Offense	265	43	16.23%	34	79.07%	9	20.93%
Secondary Offense	36	9	25.00%	0	0.00%	9	100.00%
Rate of Return CY2006 Releases							
2009							
	# Released CY2006	# Returned During CY2009	% Returned During CY2009	# Returned For Same Offense	% Returned for Same Offense	# Returned For Different Offense	% Returned For Different Offense
Most Serious Offense	265	22	8.30%	12	54.55%	10	45.45%
Secondary Offense	36	4	11.11%	2	50.00%	2	50.00%
Rate of Return CY2006 Releases							
All Years							
	# Released CY2006	# Returned 2007-2009	% Returned 2007-2009	# Returned For Same Offense	% Returned for Same Offense	# Returned For Different Offense	% Returned For Different Offense
Most Serious Offense	265	113	42.64%	86	76.11%	27	23.89%
Secondary Offense	36	20	55.56%	4	20.00%	16	80.00%

Department of Child Services, Child Support Bureau
Presentation to Child Custody and Support Advisory Committee
September 14, 2010

Exhibit 2

9-14-10

Title IV-D Child Support Enforcement Background Information

1. By federal law, each state is required to have a stand-alone agency to administer child support enforcement. In Indiana, it is the Child Support Bureau (CSB) in the Department of Child Services.
2. Child support activities and organizations are routinely referred to as "IV-D" because the activities are governed by Title IV-D of the Social Security Act.
3. IV-D agencies are responsible for **location** of non-custodial parents, establishment of **paternity**, establishment of **child support** and **medical support** orders, **enforcement** of those orders, and **payment processing**, distribution and disbursement of child support monies.
4. Cases become IV-D because 1) the custodial parent is receiving public assistance (TANF or Medicaid), 2) an application is filled out and a one-time \$25 fee is paid, 3) a case is IV-E or 4) a case is IV-D in another state and is referred to Indiana for action.
5. Congress' impetus in the 1970s for child support enforcement was cost recovery of public assistance monies paid by the federal and state governments. However, Congress soon turned the focus toward serving non-public assistance families, including changing the order in which child support monies are distributed so that families receive money before reimbursement of the government.
6. Every state must have a federally certified statewide automated computer system. Indiana's is called ISETS. The federal mandates result in a very complex system. ISETS has 350 screens, 2191 programs, 2.4 million lines of code, and runs 200 interfaces with other federal and state systems.
7. Child support enforcement is accomplished in different ways in different states. In Indiana, the local elected Prosecutors perform some locate, all establishment and most enforcement activities. Local elected Clerks do some payment processing and court order entry into ISETS. The state Child Support Bureau is responsible for ensuring the program is administered in accordance with federal and State law, and for functions such as the Interstate Central Registry and State Parent Locate Unit. Many counties have "Title IV-D Courts" which focus solely on IV-D cases instead of having those cases spread amongst multiple courts in the county.
8. All collections (both IV-D and non-IV-D) process through ISETS, totaling almost one billion dollars per year.
9. IV-D agencies receive 66% reimbursement of operating expenses from the federal government.
10. IV-D agencies also receive "incentive" funding through a complex formula based on how well they do, relative to other states, in five factors:
 - a. Paternity
 - b. Support Order Establishment
 - c. Current Support
 - d. Cases paying on Arrears
 - e. Cost/Effectiveness
11. Incentive funding is distributed in accordance with IC 31-25-4-23. Distribution is as follows:
Prosecutor (33.4%); Clerk, County General Fund, CSB (22.2%) each.

**Department of Child Services, Child Support Bureau
Presentation to Child Custody and Support Advisory Committee
September 14, 2010**


*Child Custody and Support Advisory
Committee*

I. Background Information on the IV-D program

- o Please see separate handout

Exhibit 3

9-14-10

II. General update on the IV-D program

- o Indiana's IV-D caseload at the end of FFY09 was approximately 350,000.
- o The IV-D caseload breakdown as of FFY09 is:
 - 55% Never or Former TANF
 - 33% Medicaid
 - 6% Active TANF
 - 2% Foster Care
 - 4% Arrears Only
- o IV-D collections at the end of FFY09 were \$582 million.

III. IV-D Performance Measure Historical Data

Performance measures were established by the federal Office of Child Support Enforcement for a standardized comparison between states:

Performance Percentages and Rankings to Other States	FFY 2009*	Nat'l Rank	FFY 2008	Nat'l Rank	FFY 2007	Nat'l Rank	FFY 2006	Nat'l Rank
Payment Establishment Rate	99.02%	19	97.89%	20	93.67%	27	86.19%	31
Support Order Rate	74.59%	39	72.06%	41	69.58%	43	68.44%	42
Child Support Enforcement Rate	57.53%	36	56.59%	41	54.77%	42	53.82%	43
Case Reopening Rate	64.71%	24	64.25%	25	59.57%	32	58.82%	32

**FFY2009 numbers are unofficial*

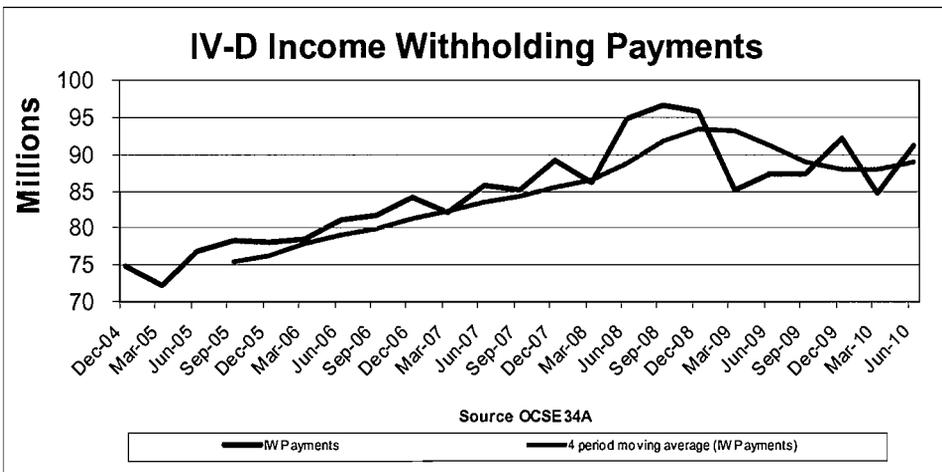
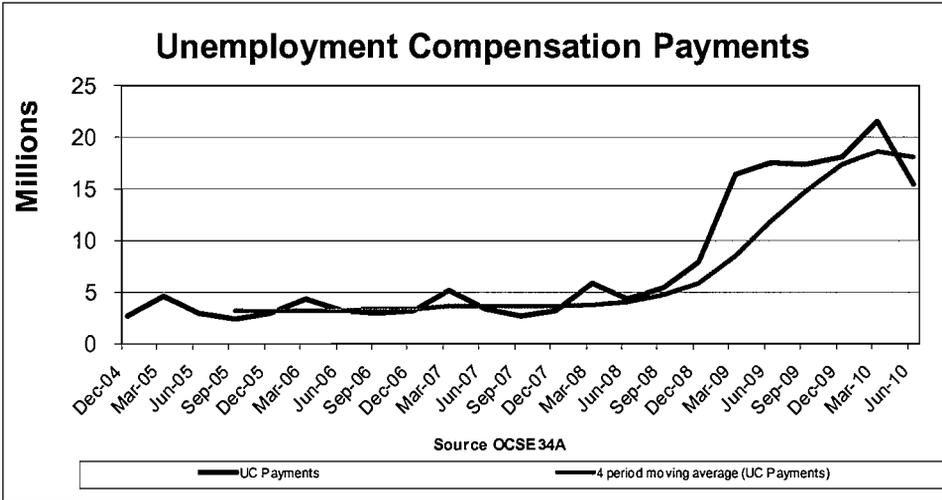
IV. IV-D Collections Data

A. Historical IV-D Overall Collections

	FFY2009	%	FFY2008	%	FFY2007	%	FFY2006
	\$582,440,180	0.4%	\$579,860,151	8.5%	\$534,374,367	5.3%	\$507,403,221
	\$2,580,029		\$45,485,785*		\$26,971,145		\$22,597,151

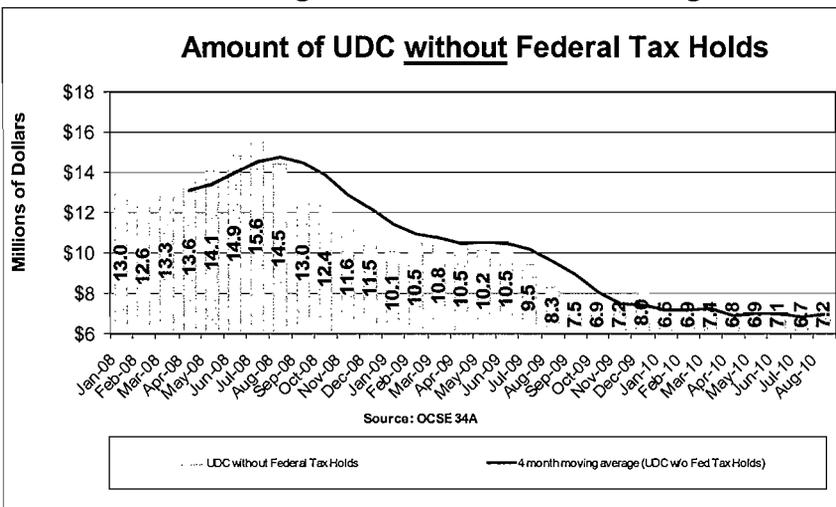
**Offset of stimulus payments through the IRS represents approximately \$26 million of this increase.*

B. Historical Income Withholding and Unemployment Compensation Collections



C. Select Focus Project Information:

Undistributed Collections Project: “Undistributed collections” (UDC) are monies that are unable to be disbursed for reasons such as no address, overpayments, research needed regarding state arrearages, etc. Three years ago, Indiana’s UDC ranked among much larger states such as New York and California. CSB launched a focused project and established a separate UDC unit. This approach has reduced UDC from a high of \$15.6 million to an average of \$7 million per month over the past year.



License Suspension Pilot Project: Suspension of drivers and recreational licenses is an administrative enforcement remedy available under IV-D law, but historically underutilized in Indiana (as compared to other states). A special license suspension project (driving, fishing and hunting licenses) was begun in October of 2008 in cooperation with eight county Prosecuting Attorneys, BMV, DNR, and the Governor's Office. The goal of the project was to encourage regular payment of child support; therefore an approach was crafted to give delinquent NCPs multiple opportunities to contact the Prosecuting Attorney and make payment arrangements. Only NCPs who either did not respond or did not live up to payment plans were placed in a suspension status with BMV or DNR.

Currently, twenty-one counties are participating in the project and collections have exceeded \$10 million on 7,500 cases as of August 3, 2010. An effort is now underway to automate the process (which is currently manual) and expand the program statewide.

V. Administrative enforcement methods available through the IV-D program:

- Federal Tax Refund Offset
- State Tax Refund Offset
- Federal Administrative Funds Offset
- Unemployment Compensation Withholding
- Lottery Winnings Intercept
- Gaming Winnings Intercept
- Personal Injury Claim Intercept
- Workers Compensation Withholding
- Unclaimed Property Withholding
- Financial Institution Data Match and Withholding
- Vehicle Liens
- Passport Denial
- Suspension of Drivers Licenses
- Suspension of Professional Licenses
- Suspension of Hunting/Fishing Licenses

VI. Statistics regarding women ordered to pay child support in the IV-D caseload:

Female: 13,191 (7%) versus Male: 188,032 (93%)

Exhibit 4

9-14-10

HOUSE/SENATE BILL No. _____

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-14-13-2.1, IC 31-14-13.1, IC 31-17-2-8.1, 31-17-2.1, 31-17-2.2-1

Synopsis: This bill seeks to establish electronic communication time between parents and children who are subject to paternity actions or dissolution of marriage proceedings. The bill establishes that electronic communication may not be used as a substitution for face-to-face parenting time. This bill establishes that courts may order electronic communication time, that parents may not interfere with electronic communication time and sanctions for violating electronic communication time orders. This bill establishes that a court may allocate costs of electronic communication time and the factors to be considered in allocating costs.

Effective: July 1, 2011.

Representative/Senator

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.

HOUSE/SENATE BILL NO _____

A BILL FOR AN ACT to amend the Indiana Code concerning parenting time

AN ACT RELATING TO THE PARENTING TIME OF A CHILD IN A PATERNITY ACTION OR DISSOLUTION OF MARRIAGE PROCEEDING

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 31-14-13-2.1 IS ADDED AS A NEW SECTION AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

31-14-13-2.1 Electronic Communication Order

(a) The court may order electronic communication under the provisions established by I.C. 31-14-13.1

SECTION 2. IC 31-14-13.1 IS ADDED AS A NEW SECTION AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

IC 31-14-13.1 Electronic Communication

IC 31-14-13.1-1 Electronic Communication; Definition

As used in this subsection, "electronic communication" means contact, other than face-to-face contact, facilitated by electronic means, such as by telephone, electronic mail, instant messaging, video teleconferencing, wired or wireless technologies by Internet, or other medium of communication."

IC 31-14-13.1-2 Electronic Communication Order

(a) An order for custody of a minor child may provide for parenting time by electronic communication. In granting parenting time by electronic communication, the court shall consider the following:

- (1) Whether electronic communication is in the best interest of the minor child;
- (2) Whether equipment to communicate by electronic means is available, accessible, and affordable to the parents of the minor child;
- (3) Whether the age or ability of the child will require assistance by a parent to facilitate electronic communication; and
- (4) Any other factor the court deems appropriate in determining whether to grant additional parenting time by electronic communication.

(b) The court may set guidelines for electronic communication, including the hours in which the communication may be made, and the furnishing of access information between parents necessary to facilitate electronic communication. Electronic communication with a minor child may be used to supplement parenting time with the child. Electronic communication may not be used as a replacement or substitution for custody or parenting time. The amount of time electronic communication is used shall not be a factor in calculating child support or be used to justify or support relocation by the custodial parent. Electronic communication between the minor child and the parent may be subject to supervision as ordered by the court. The court may order electronic communication time for the child and either parent and nothing in this chapter shall be

construed as to limit electronic communication time to be only between the child and the non-custodial parent. The court shall allocate costs under section 3 of this chapter.

(c) A petition to amend a child custody order to include an electronic communication provision shall not require a substantial change in one (1) or more of the factors that the court must consider under IC 31-14-13-2.

IC 31-14-13.1-3 Allocation of costs to facilitate Electronic Communication

The court shall determine the allocation of costs, if any, between the parents in implementing electronic communication with the child. The court shall consider the following

(1) If either parent has obstructed or created a distance that has reduced or made face-to-face parenting time more difficult to exercise.

(2) The necessary equipment to facilitate electronic communication already in the possession of either parent.

IC 31-14-13.1-4 Interference with Electronic Communication

(a) A parent shall not interfere with electronic communication between the child and the other parent. Interference may include but is not limited to;

(1) failing to reasonably maintain equipment necessary to facilitate electronic communication;

(2) the use of passwords, software blocking programs, or other access restrictions that prevent the child from using equipment or services; or

(3) failing to continue paying for or removing services such as social networking sites on the Internet that the child and the other parent use to facilitate electronic communication.

(b) A parent who interferes with electronic communication between the child and the other parent in violation of a court order may be subject to contempt and other sanctions under I.C. 31-17-4.

(c) Interference with electronic communication may be used as a factor in consideration of a petition to modify custody of a minor child.

(d) It is a defense in any proceeding involving interfere with electronic communication between the child and the other parent that the interference was done for a legitimate reason and not made with the intention of depriving the child and other parent of electronic communication time.

SECTION 3. IC 31-17-2-8.1 IS ADDED AS A NEW SECTION AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

31-17-2-8.1 Electronic Communication Order

(a) The court may order electronic communication under the provisions established by I.C. 31-17-2.1

SECTION 4. IC 31-17-2.1 IS ADDED AS A NEW SECTION AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

IC 31-17-2.1 Electronic Communication

IC 31-17-2.1-1 Electronic Communication; Definition

As used in this subsection, "electronic communication" means contact, other than face-to-face contact, facilitated by electronic means, such as by telephone, electronic mail, instant messaging, video teleconferencing, wired or wireless technologies by Internet, or other medium of communication."

IC 31-17-2.1-2 Electronic Communication Order

(a) An order for custody of a minor child may provide for parenting time by electronic communication. In granting parenting time by electronic communication, the court shall consider the following:

- (1) Whether electronic communication is in the best interest of the minor child;
- (2) Whether equipment to communicate by electronic means is available, accessible, and affordable to the parents of the minor child;
- (3) Whether the age or ability of the child will require assistance by a parent to facilitate electronic communication; and
- (4) Any other factor the court deems appropriate in determining whether to grant additional parenting time by electronic communication.

(b) The court may set guidelines for electronic communication, including the hours in which the communication may be made, and the furnishing of access information between parents necessary to facilitate electronic communication. Electronic communication with a minor child may be used to supplement parenting time with the child. Electronic communication may not be used as a replacement or substitution for custody or parenting time. The amount of time electronic communication is used shall not be a factor in calculating child support or be used to justify or support relocation by the custodial parent. Electronic communication between the minor child and the parent may be subject to supervision as ordered by the court. The court may order electronic communication time for the child and either parent and nothing in this chapter shall be construed as to limit electronic communication time to be only between the child and the non-custodial parent. The court shall allocate costs under section 3 of this chapter.

(c) A petition to amend a child custody order to include an electronic communication provision shall not require a substantial change in one (1) or more of the factors that the court must consider under IC 31-17-2-8.

IC 31-17-2.1-3 Allocation of costs to facilitate Electronic Communication

The court shall determine the allocation of costs, if any, between the parents in implementing electronic communication with the child. The court shall consider the following

- (1) If either parent has obstructed or created a distance that has reduced or made face-to-face parenting time more difficult to exercise.
- (2) The necessary equipment to facilitate electronic communication already in the possession of either parent.

IC 31-17-2.1-4 Interference with Electronic Communication

(a) A parent shall not interfere with electronic communication between the child and the other parent. Interference may include but is not limited to;

(1) failing to reasonably maintain equipment necessary to facilitate electronic communication;

(2) the use of passwords, software blocking programs, or other access restrictions that prevent the child from using equipment or services; or

(3) failing to continue paying for or removing services such as social networking sites on the Internet that the child and the other parent use to facilitate electronic communication.

(b) A parent who interferes with electronic communication between the child and the other parent in violation of a court order may be subject to contempt and other sanctions under I.C. 31-17-4.

(c) Interference with electronic communication may be used as a factor in consideration of a petition to modify custody of a minor child.

(d) It is a defense in any proceeding involving interfere with electronic communication between the child and the other parent that the interference was done for a legitimate reason and not made with the intention of depriving the child and other parent of electronic communication time.

SECTION 5. IC 31-17-2.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

IC 31-17-2.2-1

Notice of intent to move residence; modifying orders; attorney's fees

Sec. 1. (a) 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) Upon motion of a party, the court shall set the matter for a hearing to review and modify, if appropriate, a custody order, parenting time order, grandparent visitation order, or child support order. 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.

(c) The court may not use the availability of electronic communication as defined by I.C. 31-17-2.1-1 as a factor in support of a relocation of a child by the custodial parent.

(d) The court may award reasonable attorney's fees for a motion filed under this section in accordance with IC 31-15-10.