



March 2, 2001

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## SENATE BILL No. 569

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DIGEST OF SB 569 (Updated March 1, 2001 1:44 PM - DI 51)

**Citations Affected:** IC 31-14; IC 31-16; IC 31-17.

**Synopsis:** Performance bonds in family law cases. Authorizes a court to require a party to provide the security, or other guarantees required by the court to secure the performance of a child support, custody, or visitation order. Specifies that the proceeds of a forfeited custody security, bond, or other guarantee may be used to: (1) reimburse a parent for actual expenses incurred in upholding the court's order; (2) pay reasonable fees to locate and return a child; or (3) reimburse a court trustee for reasonable fees and costs. Provides that excess proceeds of a forfeited bond must be used for the child's higher education or maintenance expenses. Provides a format for a support, custody, or visitation bond.

**Effective:** Upon passage.

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### Ford, Lubbers

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January 23, 2001, read first time and referred to Committee on Judiciary.  
March 1, 2001, amended, reported favorably — Do Pass.

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SB 569—LS 8026/DI 106+



March 2, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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## SENATE BILL No. 569



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 31-14-1.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]:

4 **Chapter 1.5. Security to Secure Child Support, Custody, and**  
5 **Visitation Rights**

6 **Sec. 1. A bond required under this article to secure the**  
7 **obligation of child support, enforcement of a custody order, or**  
8 **enforcement of a visitation order must:**

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

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

15 STATE OF INDIANA )  
 16 ) SS:  
 17 COUNTY OF \_\_\_\_\_ )

SB 569—LS 8026/DI 106+



1 )  
 2 )  
 3 **IN THE MATTER OF:**  
 4 )  
 5 )  
 6 **Name of Parent (As the Principal)**  
 7 )  
 8 **Name of Parent (As the Oblige)**  
 9 )  
 10 )  
 11 **CHILD:**  
 12 )  
 13 **Name of Child**  
 14 )

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

21 **WHEREAS**, an Order was duly made and entered by the above  
 22 **Court in the State of Indiana, County of \_\_\_\_\_, dated \_\_\_\_\_, defining**  
 23 **custody, visitation, and support rights regarding the named**  
 24 **children.**

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

- 27 1. **No right of action on this bond shall be granted for the**  
 28 **use or benefit of any individual, partnership,**  
 29 **corporation, or other entity, other than the named**  
 30 **Oblige.**
- 31 2. **It is agreed that neither this bond nor the obligation of**  
 32 **this bond, nor any interest in this bond, may be assigned**  
 33 **without the prior express written consent of the Surety.**
- 34 3. **Payment under this bond shall be conditioned upon the**  
 35 **Oblige's, or the representative of the Oblige's filing a**  
 36 **motion with the court seeking a declaration of forfeiture**  
 37 **of the bond and the Court's finding and entry of a final**  
 38 **judgment ordering the Principal and Surety to make**  
 39 **such payment. A certified copy of the filing shall be**  
 40 **provided to the Surety at its address of record. The**  
 41 **Surety shall make payment within thirty (30) days of**  
 42 **receiving notification of the final judgment directly to a**

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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, 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 the Principal faithfully complies with the requirements and conditions of the 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)

(Countersigned by attorney-in-fact)

(Surety seal)

Witness:

Sec. 3. Upon forfeiture, the proceeds of the security, a bond, or other guarantee ordered to secure the obligation of child support, enforcement of a custody order, or enforcement of a visitation 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, if the security, bond, or guarantee covers custody or visitation, or both; or
- (3) reimburse reasonable fees and court costs to the court appointed trustee.

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1           **Sec. 4. Upon forfeiture, the proceeds of security, a bond, or**  
 2 **other guarantee ordered to secure the obligation of child support,**  
 3 **enforcement of a custody order, or enforcement of a visitation**  
 4 **order under this article that are not applied to the expenses**  
 5 **described in section 3 of this chapter must be applied toward:**

- 6           **(1) the child's higher education; or**  
 7           **(2) the support and maintenance of the child.**

8           SECTION 2. IC 31-14-11-7 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The court may  
 10 require that the parent obligated to make support payments provide  
 11 appropriate in:

- 12           **(1) a support order; or**  
 13           **(2) modification of a support order;**

14 **for the security, bond, or other guarantee that is satisfactory to ensure**  
 15 **that the parent will fulfill the parent's court to secure the obligation to**  
 16 **make support payments.**

17           SECTION 3. IC 31-14-13-6.5 IS ADDED TO THE INDIANA  
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19 [EFFECTIVE UPON PASSAGE]: Sec. 6.5. The court may provide  
 20 in:

- 21           **(1) a custody order; or**  
 22           **(2) a modification of a custody order;**

23 **for the security, bond, or other guarantee that is satisfactory to the**  
 24 **court to secure enforcement of the custody order.**

25           SECTION 4. IC 31-14-13-6.7 IS ADDED TO THE INDIANA  
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE UPON PASSAGE]: Sec. 6.7. The court shall consider  
 28 **requiring security, a bond or another guarantee under section 6.5**  
 29 **of this chapter if the court determines that there is a reasonable**  
 30 **likelihood from the totality of the evidence that one (1) or more**  
 31 **parties may commit a violation of IC 35-42-3-4 (interference with**  
 32 **custody). In making a determination under this section, the court**  
 33 **may consider the following:**

- 34           **(1) Whether a party has previously taken a child out of**  
 35 **Indiana or another state in violation of a custody or visitation**  
 36 **order.**  
 37           **(2) Whether a party has previously threatened to take a child**  
 38 **out of Indiana or another state in violation of a custody or**  
 39 **visitation order.**  
 40           **(3) Whether a party has strong ties to Indiana.**  
 41           **(4) Whether a party is a citizen of another country and has**  
 42 **strong emotional or cultural ties to the other county in which**



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the person is a citizen.

(5) Whether a party has friends or family living outside Indiana.

(6) Whether a party does not have a financial reason to stay in Indiana, such as whether the party is unemployed, able to work anywhere, or is financially independent.

(7) Whether a party has engaged in planning that would facilitate removal from Indiana, such as quitting a job, selling the party's primary residence, terminating a lease, closing an account, liquidating other assets, hiding or destroying documents, applying for a passport, applying for a birth certificate, or applying for school or medical records.

(8) Whether a party has a history of marital instability, a lack of parental cooperation, domestic violence, or child abuse.

(9) Whether a party has a criminal record.

SECTION 5. IC 31-14-14-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. The court may provide in:**

- (1) a visitation order; or
- (2) a modification of a visitation order;

**for the security, bond, or other guarantee that is satisfactory to secure enforcement of the visitation order.**

SECTION 6. IC 31-14-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) This section does not apply to an order under IC 31-14-11-7, IC 31-14-13-6.5, or IC 31-14-14-2.5.**

**(b)** A court may not require an applicant for a temporary restraining order or an injunction under this chapter (or IC 31-6-6.1-12.1 before its repeal) to give security.

SECTION 7. IC 31-14-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) This section does not apply to an order under IC 31-14-11-7, IC 31-14-13-6.5, or, IC 31-14-14-2.5.**

**(b)** A court may not require the moving party under this chapter to give security.

SECTION 8. IC 31-16-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 3.5. Security to Secure Child Support**

**Sec. 1. A bond required under this article to secure the obligation of child support must:**

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

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, visitation, 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.

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- 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, 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 the Principal faithfully complies with the requirements and conditions of the 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)

\_\_\_\_\_  
(Countersigned by attorney-in-fact)

\_\_\_\_\_  
(Surety seal)

Witness:  
Sec. 3. Upon forfeiture, the proceeds of security, a bond, or other guarantee ordered to secure the obligation of child support,



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enforcement of a custody order, or enforcement of a visitation 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, if the security, bond, or guarantee covers custody or visitation, or both; or
- (3) reimburse reasonable fees and court costs to the court appointed trustee.

Sec. 4. The proceeds of the security, bond, or other guarantee ordered to secure the obligation of child support ordered 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 higher education; or
- (2) the support and maintenance of the child.

SECTION 9. IC 31-16-8-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The court may provide in a modification of a support order for the security, bond, or other guarantee that is satisfactory to the court to secure the obligation to make support payments.

SECTION 10. IC 31-17-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 3.5. Security to Secure Custody and Visitation Orders**

Sec. 1. A bond required under this article to secure enforcement of a custody order or visitation 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.

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 \_\_\_\_\_ )  
 )  
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 IN THE MATTER OF: )  
 )  
 )  
 Name of Parent (As the Principal)

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1 )  
 2 Name of Parent (As the Obligee)  
 3 )  
 4 )  
 5 CHILD:  
 6 )  
 7 Name of Child  
 8 )

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

15 WHEREAS, an Order was duly made and entered by the above  
 16 Court in the State of Indiana, County of \_\_\_\_\_, dated \_\_\_\_\_, defining  
 17 custody, visitation, and support rights regarding the named  
 18 children.

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

- 21 1. No right of action on this bond shall be granted for the  
 22 use or benefit of any individual, partnership,  
 23 corporation, or other entity, other than the named  
 24 Obligee.
- 25 2. It is agreed that neither this bond nor the obligation of  
 26 this bond, nor any interest in this bond, may be assigned  
 27 without the prior express written consent of the Surety.
- 28 3. Payment under this bond shall be conditioned upon the  
 29 Obligee's, or the representative of the Obligee's filing a  
 30 motion with the court seeking a declaration of forfeiture  
 31 of the bond and the Court's finding and entry of a final  
 32 judgment ordering the Principal and Surety to make  
 33 such payment. A certified copy of the filing shall be  
 34 provided to the Surety at its address of record. The  
 35 Surety shall make payment within thirty (30) days of  
 36 receiving notification of the final judgment directly to a  
 37 Trustee appointed by the Court who shall administer the  
 38 funds in a fiduciary capacity.
- 39 4. The Surety shall not be liable hereunder for any amount  
 40 larger than the face amount of this bond.
- 41 5. This bond and the obligation hereunder shall terminate  
 42 and be of no further effect if the Court order requiring

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it is modified in any way without the Surety's consent, 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)  
(Countersigned by attorney-in-fact)  
(Surety seal)

Witness:

Sec. 3. Upon forfeiture, the proceeds of security, a bond, or other guarantee ordered to secure enforcement of a custody order or visitation 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.

Sec. 4. Upon forfeiture, the proceeds of the security, a bond, or other guarantee ordered to secure enforcement of a custody order or visitation 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 higher education; or
- (2) the support and maintenance of the child.

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1 SECTION 11. IC 31-17-2-21.5 IS ADDED TO THE INDIANA  
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. The court may provide**  
 4 **in:**

5 (1) a custody order; or

6 (2) a modification to a custody order;

7 **for the security, bond, or other guarantee that is satisfactory to the**  
 8 **court to secure enforcement of the custody order.**

9 SECTION 12. IC 31-17-2-21.7 IS ADDED TO THE INDIANA  
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 11 [EFFECTIVE UPON PASSAGE]: **Sec. 21.7. The court shall consider**  
 12 **requiring security, a bond or another guarantee under section 21.5**  
 13 **of this chapter if the court determines that there is a reasonable**  
 14 **likelihood from the totality of the evidence that one (1) or more**  
 15 **parties may commit a violation of IC 35-42-3-4 (interference with**  
 16 **custody). In making a determination under this section, the court**  
 17 **may consider the following:**

18 (1) Whether a party has previously taken a child out of  
 19 Indiana or another state in violation of a custody or visitation  
 20 order.

21 (2) Whether a party has previously threatened to take a child  
 22 out of Indiana or another state in violation of a custody or  
 23 visitation order.

24 (3) Whether a party has strong ties to Indiana.

25 (4) Whether a party is a citizen of another country and has  
 26 strong emotional or cultural ties to the other county in which  
 27 the person is a citizen.

28 (5) Whether a party has friends or family living outside  
 29 Indiana.

30 (6) Whether a party has not financial reason to stay in  
 31 Indiana, such as whether the party is unemployed, able to  
 32 work anywhere, or is financially independent.

33 (7) Whether a party has engaged in planning that would  
 34 facilitate removal from Indiana, such as quitting a job, selling  
 35 the party's primary residence, terminating a lease, closing an  
 36 account, liquidating other assets, hiding or destroying  
 37 documents, applying for a passport, applying for a birth  
 38 certificate, or applying for school or medical records.

39 (8) Whether a party has a history of marital instability, a lack  
 40 of parental cooperation, domestic violence, or child abuse.

41 (9) Whether a party has a criminal record.

42 SECTION 13. IC 31-17-4-2.5 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. The court may provide**  
 3 **in:**  
 4 **(1) a visitation order; or**  
 5 **(2) a modification to a visitation order;**  
 6 **for the security, bond, or other guarantee that is satisfactory to the**  
 7 **court to secure enforcement of the provisions of the visitation**  
 8 **order.**  
 9 SECTION 14. IC 31-17-4-7 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) This section**  
 11 **does not apply to an order under IC 31-17-4-2.5.**  
 12 **(b)** A court may not require an applicant for a temporary restraining  
 13 order or an injunction under section 4 of this chapter (or  
 14 IC 31-1-11.5-26 before its repeal) to give security.  
 15 SECTION 15. **An emergency is declared for this act.**

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SENATE MOTION

Mr. President: I move that Senator Lubbers be added as second author of Senate Bill 569.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 569, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:  
SECTION 1. IC 31-14-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 1.5. Security to Secure Child Support, Custody, and Visitation Rights".**

Page 2, delete lines 1 through 6.

Page 2, line 7, delete "(d)" and insert "Sec. 1."

Page 2, line 7, delete "or surety".

Page 2, line 7, delete "chapter" and insert "**article to secure the obligation of child support, enforcement of a custody order, or enforcement of a visitation order**".

Page 2, line 8, after ";" insert "and".

Page 2, line 11, delete "; and" and insert ".".

Page 2, delete line 12, begin a new paragraph and insert:

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

Page 4, line 5, delete "(e) The" and insert "**Sec. 3. Upon forfeiture, the**".

Page 4, line 5, after "of" insert "**the security,**".

Page 4, line 5, delete "or surety forfeited under this section" and insert "**, or other guarantee ordered to secure the obligation of child support, enforcement of a custody order, or enforcement of a visitation order under this article**".

Page 4, line 10, delete ";" and insert "**, if the security, bond, or guarantee covers custody or visitation, or both;**".

Page 4, line 13, delete "(f) The" and insert "**Sec. 4. Upon forfeiture, the**".

Page 4, line 13, after "of" insert "**security,**".

Page 4, line 13, delete "or surety forfeited under this section" and insert "**, or other guarantee ordered to secure the obligation of child support, enforcement of a custody order, or enforcement of a visitation order under this article**".

Page 4, line 14, delete "subsection (e)" and insert "**section 3 of this chapter**".

Page 4, line 15, delete "placed in trust to provide for:" and insert

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**"applied toward:".**

Page 4, line 17, delete "upon" and insert ".".

Page 4, delete lines 18 through 42, begin a new paragraph and insert:

"SECTION 2. IC 31-14-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The court may require that the parent obligated to make support payments provide appropriate in:

- (1) a support order; or**
- (2) modification of a support order;**

**for the security, bond, or other guarantee that is satisfactory to ensure that the parent will fulfill the parent's court to secure the obligation to make support payments.**

SECTION 3. IC 31-14-13-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. The court may provide in:

- (1) a custody order; or**
- (2) a modification of a custody order;**

**for the security, bond, or other guarantee that is satisfactory to the court to secure enforcement of the custody order.**

SECTION 4. IC 31-14-13-6.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.7. The court shall consider requiring security, a bond or another guarantee under section 6.5 of this chapter if the court determines that there is a reasonable likelihood from the totality of the evidence that one (1) or more parties may commit a violation of IC 35-42-3-4 (interference with custody). In making a determination under this section, the court may consider the following:

- (1) Whether a party has previously taken a child out of Indiana or another state in violation of a custody or visitation order.**
- (2) Whether a party has previously threatened to take a child out of Indiana or another state in violation of a custody or visitation order.**
- (3) Whether a party has strong ties to Indiana.**
- (4) Whether a party is a citizen of another country and has strong emotional or cultural ties to the other county in which the person is a citizen.**
- (5) Whether a party has friends or family living outside Indiana.**

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**(6) Whether a party does not have a financial reason to stay in Indiana, such as whether the party is unemployed, able to work anywhere, or is financially independent.**

**(7) Whether a party has engaged in planning that would facilitate removal from Indiana, such as quitting a job, selling the party's primary residence, terminating a lease, closing an account, liquidating other assets, hiding or destroying documents, applying for a passport, applying for a birth certificate, or applying for school or medical records.**

**(8) Whether a party has a history of marital instability, a lack of parental cooperation, domestic violence, or child abuse.**

**(9) Whether a party has a criminal record.**

SECTION 5. IC 31-14-14-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. The court may provide in:**

- (1) a visitation order; or**
- (2) a modification of a visitation order;**

**for the security, bond, or other guarantee that is satisfactory to secure enforcement of the visitation order.**

SECTION 6. IC 31-14-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) This section does not apply to an order under IC 31-14-11-7, IC 31-14-13-6.5, or IC 31-14-14-2.5.**

**(b) A court may not require an applicant for a temporary restraining order or an injunction under this chapter (or IC 31-6-6.1-12.1 before its repeal) to give security.**

SECTION 7. IC 31-14-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) This section does not apply to an order under IC 31-14-11-7, IC 31-14-13-6.5, or , IC 31-14-14-2.5.**

**(b) A court may not require the moving party under this chapter to give security.**

SECTION 8. IC 31-16-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 3.5. Security to Secure Child Support**

**Sec. 1. A bond required under this article to secure the obligation of child support must:**

- (1) be in writing; and**
- (2) be secured by:**
  - (A) at least one (1) resident freehold surety; or**



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(B) a commercial insurance company.

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, visitation, 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

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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, 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 the Principal faithfully complies with the requirements and conditions of the 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)

(Countersigned by attorney-in-fact)

(Surety seal)

Witness:

Sec. 3. Upon forfeiture, the proceeds of security, a bond , or other guarantee ordered to secure the obligation of child support, enforcement of a custody order, or enforcement of a visitation order under this article may only be used to:

- (1) reimburse the nonviolating party for actual costs or



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- 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, if the security, bond, or guarantee covers custody or visitation, or both; or
- (3) reimburse reasonable fees and court costs to the court appointed trustee.

**Sec. 4. The proceeds of the security, bond , or other guarantee ordered to secure the obligation of child support ordered 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 higher education; or
- (2) the support and maintenance of the child.

SECTION 9. IC 31-16-8-3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 3. The court may provide in a modification of a support order for the security, bond, or other guarantee that is satisfactory to the court to secure the obligation to make support payments.**

SECTION 10. IC 31-17-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]:

**Chapter 3.5. Security to Secure Custody and Visitation Orders".**

Page 5, delete lines 1 through 5.

Page 5, line 6, delete "(d)" and insert "**Sec. 1.**".

Page 5, line 6, delete " or surety".

Page 5, line 6, delete "chapter" and insert "**article to secure enforcement of a custody order or visitation order**".

Page 5, line 7, after ";" insert "**and**".

Page 5, line 10, delete "; and" and insert ".".

Page 5, delete line 11, begin a new paragraph and insert:

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

Page 7, line 5, delete "(e) The" and insert "**Sec. 3. Upon forfeiture, the**".

Page 7, line 5, after "of" insert "**security,**".

Page 7, line 5, delete "or surety forfeited under this section" and insert "**, or other guarantee ordered to secure enforcement of a custody order or visitation order under this article**".

Page 7, line 13, delete "(f) The" and insert "**Sec. 4. Upon forfeiture, the**".

Page 7, line 13, after "of" insert "**the security,**".

Page 7, line 13, delete "or surety forfeited under this section" and

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insert ", or other guarantee ordered to secure enforcement of a custody order or visitation order under this article".

Page 7, line 14, delete "subsection (e)" and insert "**section 3 of this chapter**".

Page 7, line 15, delete "placed in trust to provide for:" and insert "**applied toward:**".

Page 7, line 17, delete "upon" and insert ".".

Page 7, delete lines 18 through 22, begin a new paragraph and insert:

"SECTION 11. IC 31-17-2-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. The court may provide in:**

- (1) a custody order; or
- (2) a modification to a custody order;

**for the security, bond, or other guarantee that is satisfactory to the court to secure enforcement of the custody order.**

SECTION 12. IC 31-17-2-21.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.7. The court shall consider requiring security, a bond or another guarantee under section 21.5 of this chapter if the court determines that there is a reasonable likelihood from the totality of the evidence that one (1) or more parties may commit a violation of IC 35-42-3-4 (interference with custody). In making a determination under this section, the court may consider the following:**

- (1) Whether a party has previously taken a child out of Indiana or another state in violation of a custody or visitation order.
- (2) Whether a party has previously threatened to take a child out of Indiana or another state in violation of a custody or visitation order.
- (3) Whether a party has strong ties to Indiana.
- (4) Whether a party is a citizen of another country and has strong emotional or cultural ties to the other county in which the person is a citizen.
- (5) Whether a party has friends or family living outside Indiana.
- (6) Whether a party has not financial reason to stay in Indiana, such as whether the party is unemployed, able to work anywhere, or is financially independent.
- (7) Whether a party has engaged in planning that would

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facilitate removal from Indiana, such as quitting a job, selling the party's primary residence, terminating a lease, closing an account, liquidating other assets, hiding or destroying documents, applying for a passport, applying for a birth certificate, or applying for school or medical records.

**(8) Whether a party has a history of marital instability, a lack of parental cooperation, domestic violence, or child abuse.**

**(9) Whether a party has a criminal record.**

SECTION 13. IC 31-17-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. The court may provide in:**

**(1) a visitation order; or**

**(2) a modification to a visitation order;**

**for the security, bond, or other guarantee that is satisfactory to the court to secure enforcement of the provisions of the visitation order.**

SECTION 14. IC 31-17-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) This section does not apply to an order under IC 31-17-4-2.5.**

**(b) A court may not require an applicant for a temporary restraining order or an injunction under section 4 of this chapter (or IC 31-1-11.5-26 before its repeal) to give security."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 569 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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