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**PRELIMINARY DRAFT**  
**No. 3684**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2006 GENERAL ASSEMBLY**

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DIGEST

**Citations Affected:** IC 31-16; IC 31-18-1-8; IC 33-37-5-6.

**Synopsis:** Annual child support fee. Provides that an individual ordered to pay child support through income withholding shall also pay the annual child support fee through income withholding. Changes the support and maintenance fee to \$26.

**Effective:** July 1, 2006.



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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 31-16-15-1, AS AMENDED BY P.L.234-2005,  
2 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2006]: Sec. 1. (a) In a proceeding under IC 31-14 or  
4 IC 31-16-2 through IC 31-16-12 to establish, modify, or enforce a child  
5 support order, the court shall:

- 6 (1) enter an order for immediate income withholding; and  
7 (2) modify any previously issued income withholding order that  
8 has not been activated under this chapter to provide for immediate  
9 income withholding.

10 (b) The court shall issue the income withholding order to the income  
11 payor not later than fifteen (15) calendar days after the court's  
12 determination.

13 (c) The income withholding order must order income payors to send  
14 to the state central collection unit ~~or other person specified in the~~  
15 ~~support order~~ under:

- 16 (1) IC 31-14-11-11;  
17 ~~(2) IC 31-16-4; or~~  
18 ~~(3) (2) IC 31-16-9; or~~  
19 **(3) IC 33-37-5-6;**

20 the amount of income established by the court for child support at the  
21 time the order for child support is established, enforced, or modified  
22 **and the annual fee required under IC 33-37-5-6.**

23 (d) However, the court shall issue an income withholding order that  
24 will not become activated except upon the occurrence of the two (2)  
25 conditions described in section 2 of this chapter if:

- 26 (1) the parties submit a written agreement providing for an  
27 alternative child support arrangement; or  
28 (2) the court determines that good cause exists not to require  
29 immediate income withholding.

30 (e) A finding of good cause under subsection (d)(2) must:

- 31 (1) be written; and



- 1 (2) include:
- 2 (A) all reasons why immediate income withholding is not in
- 3 the best interests of the child; and
- 4 (B) if the case involves a modification of support, a statement
- 5 that past support has been timely paid.
- 6 (f) The income withholding order must contain a statement that if
- 7 the withholding order is activated, income payors will be ordered to
- 8 send to the state central collection unit ~~or other person specified in the~~
- 9 ~~support order~~ under:
- 10 (1) IC 31-14-11-11;
- 11 ~~(2) IC 31-16-4; or~~
- 12 ~~(3) (2) IC 31-16-9; or~~
- 13 **(3) IC 33-37-5-6;**
- 14 the amount of income established by the court for child support **and**
- 15 **the annual fee required under IC 33-37-5-6.**
- 16 SECTION 2. IC 31-16-21-1 IS AMENDED TO READ AS
- 17 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Whenever in any
- 18 court proceeding an order is in force for
- 19 ~~(1) the support and maintenance of the other party to the~~
- 20 ~~proceeding, or~~
- 21 ~~(2) the support and maintenance of a child;~~
- 22 the individual required to pay the support shall pay the support.
- 23 (b) The clerk, **if the payment is in cash, or the state central**
- 24 **collection unit, for all other forms of payment**, shall collect from the
- 25 individual, in addition to the payments, the fee specified in
- 26 IC 33-37-5-6.
- 27 (c) The clerk may collect any unpaid fee in a proceeding for
- 28 contempt.
- 29 SECTION 3. IC 31-18-1-8 IS AMENDED TO READ AS
- 30 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. "Income withholding
- 31 order" means an order or other legal process directed to an obligor's
- 32 income payor to withhold:
- 33 (1) support;
- 34 (2) **support fees; and**
- 35 (3) **maintenance fees;**
- 36 from the income of the obligor.
- 37 SECTION 4. IC 33-37-5-6 IS AMENDED TO READ AS
- 38 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) This section
- 39 applies to an action in which a final court order requires a person to pay
- 40 support or maintenance payments through the clerk **or the state**
- 41 **central collection unit.**
- 42 (b) The clerk **or the state central collection unit** shall collect a fee,
- 43 in addition to support and maintenance payments. The fee is ~~the~~
- 44 ~~following:~~
- 45 ~~(1) Twenty dollars (\$20) for the calendar year in which the initial~~
- 46 ~~order is entered; unless the first payment is due after June 30 of~~



- 1 that calendar year.
- 2 (2) Ten dollars (\$10) for the calendar year in which the initial  
3 order was entered; if the first payment is due after June 30 of that  
4 calendar year.
- 5 (3) In each subsequent year in which the initial order or a  
6 modified order is in effect, twenty dollars (\$20) if the fee is paid  
7 before February 1; or thirty dollars (\$30) if paid after January 31.  
8 **twenty-six dollars (\$26) for each calendar year. If an  
9 individual is ordered to pay the fee for a partial year, the fee  
10 shall be calculated at fifty cents (\$.50) per week from the date  
11 of the support order until the end of the calendar year. The  
12 clerk shall collect this fee if the fee is paid in cash and the state  
13 central collection unit shall collect this fee if paid in a noncash  
14 method.**
- 15 (c) The fee required under subsection (b) is due at the time that the  
16 first support or maintenance payment for the calendar year in which the  
17 fee must be paid is due.
- 18 (d) The clerk may not deduct the fee from a support or maintenance  
19 payment.
- 20 (e) Except as provided under IC 33-32-4-6, IC 33-37-7-1(g), and  
21 IC 33-37-7-2(g), the clerk shall forward the fee collected under this  
22 section to the county auditor in accordance with IC 33-37-7-12(a).
- 23 **(f) Income payors required to withhold income under  
24 IC 31-16-15 shall pay the annual fee required by subsection (b)  
25 through the income withholding procedures described in  
26 IC 31-16-15-1.**

