

# HOUSE/SENATE BILL No. \_\_\_\_\_

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## 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, 2014.

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Representative/Senator

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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, 2014]:

**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, 2014]:

**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, 2014]:

#### **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, 2014]:

#### **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, 2014]:

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.**